the Abraham Lincoln Study Abroad Program.

S. 3768

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3768, a bill to prohibit the procurement of victim-activated landmines and other weapons that are designed to be victim-activated.

S. 3791

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3791, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 3813

At the request of Mr. SMITH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3813, a bill to permit individuals who are employees of a grantee that is receiving funds under section 330 of the Public Health Service Act to enroll in health insurance coverage provided under the Federal Employees Health Benefits Program.

S. 4011

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 4011, a bill to amend the Medicare Prescription Drug, Improvement and Modernization Act of 2003 to restore State authority to waive the application of the 35-mile rule to permit the designation of a critical access hospital in Cass County, Minnesota.

S. 4067

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 4067, a bill to provide for secondary transmissions of distant network signals for private home viewing by certain satellite carriers.

S. 4080

At the request of Mr. STEVENS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 4080, a bill to amend title 17, United States Code, with respect to settlement agreements reached with respect to litigation involving certain secondary transmissions of superstations and network stations.

S. RES. 622

At the request of Mr. WARNER, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 622, a resolution supporting the goals and ideals of a ''National Children and Families Day'', as established by the National Children's Museum, on the fourth Saturday of June.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 4084. A bill to authorize the implementation of the San Joaquin River Restoration Settlement; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce—with my cosponsor Senator BOXER—a historic bill that will end 18 years of litigation between the Natural Resources Defense Council, the Friant Water Authority, and the U.S. Department of the Interior. The legislation will enact a settlement that accomplishes the restoration of California's second longest river, the San Joaquin, while maintaining a stable water supply for the farmers who have made the Valley bloom and have supplied low-cost agricultural products to Americans from coast to coast.

The alternative to a consensus resolution to this long-running western water battle basis is to continue the fight. To my knowledge, every farmer and every environmentalist who has considered the possibility of continued litigation believes that an outcome imposed by a judge is likely to be worse for everyone on all counts: more costly, riskier for the farmers, and less beneficial for the environment.

Because the settlement provides a framework that all interests can accept, this legislation has the strong support of the Bush administration, the Schwarzenegger administration, the environmental and fishing communities and numerous California farmers and water districts, including all 22 Friant water districts that have been part of the litigation.

In announcing the signing of this San Joaquin River settlement in September, the Assistant Secretary of the Interior praised it as a ''monumental agreement.'' And when the Federal court then approved the settlement in late October, Secretary of the Interior Dirk Kempthorne further praised settlement for launching ''one of the largest environmental restoration projects in California's history.'' The Secretary further observed that ''This Settlement closes a long chapter of conflict and uncertainty in California's San Joaquin Valley . . . and open[s] a new chapter of environmental restoration and water supply certainty for the farmers and their communities.''

I share the Secretary's strong support for this balanced and historic agreement, and it is my honor to join with Senator BOXER and a bipartisan group of California House Members in introducing legislation to approve and authorize this settlement before we end the 109th Congress.

The legislation indicates how the settlement agreement forged by the parties is going to be implemented. It involves the Departments of the Interior and Commerce, and essentially gives the Secretary of the Interior the additional authority to:

take the actions to restore the San Joaquin River;

reintroduce the California Central Valley Spring Run Chinook Salmon;

minimize water supply impacts on Friant water districts; and

avoid reductions in water supply for third-party water contractors.

One of the major benefits of this settlement is the restoration of a long-lost salmon fishery. The return of one of California's most important salmon runs will create significant benefits for local communities in the San Joaquin Valley, helping to restore a beleaguered fishing industry while improving recreation and quality of life.

The legislation provides for improvements to the San Joaquin River channel to allow salmon restoration to begin in 2014. Beginning in that year, the river would see an annual flow regime mandated by the settlement, with pulses of additional water in the spring and greater flows available in wetter years. There is flexibility to add or subtract up to 10 percent from the annual flows, as the best science dictates.

A visitor to the revitalized river channel in a decade will find an entirely different place providing recreation and relaxation for residents of small towns like Mendota, and a refuge for residents of larger cities like Fresno.

The legislation I am introducing today includes provisions to benefit the farmers of the San Joaquin Valley as well as the salmon: In wet years, Friant contractors can purchase surplus flows at $10 per acre-foot for use in dry years, far less than the approximately $35 per acre-foot that they would otherwise pay for this water. The Secretary of the Interior is authorized to recirculate new restoration flows from the Delta via the California aqueduct and the Cross-Valley Canal to provide additional supply for Friant.

Today's legislation also includes substantial protections for other water districts in California that were not party to the original settlement negotiations. These other water contractors will be able to avoid all but the smallest water impacts as a result of the settlement, except on a voluntary basis.

In addition, the restoration of flows for over 150 miles below Friant Dam, and reconnecting the upper river to the critical San Joaquin-Sacramento Delta, will be a welcome change for the more than 22 million Californians who rely on that crucial source for their drinking water.

Finally, restoring the San Joaquin as a living salmon river may ultimately help struggling fishing communities on California's north coast—and even into southern Oregon. The restoration of the San Joaquin and the government's commitment to reintroduce and rebuild historic salmon populations provide a rare bright spot for these communities.

In addition to congratulating the parties for making a settlement that will enable the long-sought restoration of the San Joaquin River, I am mindful of and remain committed to progress in implementing and funding the December 19, 2000, Trinity River restoration

record of decision and the Hoopa Valley Tribe's comanagement of the decision's important goal of restoring the fishery resources that the United States holds in trust for the tribe.

Support of this agreement is almost as far reaching as its benefits. This historic agreement would not have been possible without the participation of a remarkably broad group of agencies, stakeholders and legislators, reaching far beyond the settling parties. The Department of the Interior, the State of California, the Friant Water Users Authority, the Natural Resources Defense Council on behalf of 13 other environmental organizations and countless other stakeholders came together and spent countless hours with legislators in Washington to ensure that we found a solution that the large majority of those affected could support.

Last month, California voters showed their support by approving Propositions 84 and 1E that will help pay for the settlement by committing at least $100 million and likely $200 million or more toward the restoration costs. Indeed, this legislation includes a diverse mix of approximately $200 million in direct Water User payments, new State payments, $240 million in dedicated Friant Central Valley Project capital repayments, and future Federal appropriations limited to $250 million. This mix of funding sources is intended to ensure that the river restoration program will be sustainable over time and truly a joint effort of Federal, State and local agencies.

I would like to emphasize that the Federal funding in the bill is for implementation of both the restoration goal to reestablish a salmon fishery in the river, and the water management goal to avoid or minimize water supply losses supplied by Friant Water Districts. It is important to recognize that these efforts are of equal importance.

At the end of the day, I believe that this agreement is something that we can all feel very proud of, and I urge my colleagues in the Senate to move quickly to approve this legislation and provide the administration the authorization it needs to fully carry out its legal obligations and the extensive restoration opportunities under the settlement.

I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 4084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''San Joaquin River Restoration Settlement Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to authorize implementation of the Stipulation of Settlement dated September 13, 2006 (referred to in this Act as the ''Settlement''), in the litigation entitled NATURAL RESOURCES DEFENSE COUNCIL, et al. v. KIRK RODGERS, et al., United States District Court, Eastern District of California, No. CIV. S–88–1658–LKK/GGH.

SEC. 3. DEFINITIONS.

In this Act, the terms ''Friant Division long-term contractors'', ''Interim Flows'', ''Restoration Flows'', ''Recovered Water Account'', ''Restoration Goal'', and ''Water Management Goal'' have the meanings given the terms in the Settlement.

SEC. 4. IMPLEMENTATION OF SETTLEMENT.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') is hereby authorized and directed to implement the terms and conditions of the Settlement in cooperation with the State of California, including the following measures as these measures are prescribed in the Settlement:

(1) Design and construct channel and structural improvements as described in paragraph 11 of the Settlement, provided, however, that the Secretary shall not make or fund any such improvements to facilities or property of the State of California without the approval of the State of California and the State's agreement in 1 or more Memoranda of Understanding to participate where appropriate.

(2) Modify Friant Dam operations so as to provide Restoration Flows and Interim Flows.

(3) Acquire water, water rights, or options to acquire water as described in paragraph 13 of the Settlement, provided, however, such acquisitions shall only be made from willing sellers and not through eminent domain.

(4) Implement the terms and conditions of paragraph 16 of the Settlement related to recirculation, recapture, reuse, exchange, or transfer of water released for Restoration Flows or Interim Flows, for the purpose of accomplishing the Water Management Goal of the Settlement, subject to—

(A) applicable provisions of California water law;

(B) the Secretary's use of Central Valley Project facilities to make Project water (other than water released from Friant Dam pursuant to the Settlement) and water acquired through transfers available to existing south-of-Delta Central Valley Project contractors; and

(C) the Secretary's performance of the Agreement of November 24, 1986, between the United States of America and the Department of Water Resources of the State of California for the coordinated operation of the Central Valley Project and the State Water Project as authorized by Congress in section 2(d) of the Act of August 26, 1937 (50 Stat. 850, 100 Stat. 3051), including any agreement to resolve conflicts arising from said Agreement.

(5) Develop and implement the Recovered Water Account as specified in paragraph 16(b) of the Settlement, including the pricing and payment crediting provisions described in paragraph 16(b)(3) of the Settlement, provided that all other provisions of Federal reclamation law shall remain applicable.

(b) AGREEMENTS.—

(1) AGREEMENTS WITH THE STATE.—In order to facilitate or expedite implementation of the Settlement, the Secretary is authorized and directed to enter into appropriate agreements, including cost sharing agreements, with the State of California.

(2) OTHER AGREEMENTS.—The Secretary is authorized to enter into contracts, memoranda of understanding, financial assistance agreements, cost sharing agreements, and other appropriate agreements with State, tribal, and local governmental agencies, and with private parties, including agreements related to construction, improvement, and operation and maintenance of facilities, subject to any terms and conditions that the Secretary deems necessary to achieve the purposes of the Settlement.

(c) ACCEPTANCE AND EXPENDITURE OF NON-FEDERAL FUNDS.—The Secretary is authorized to accept and expend non-Federal funds in order to facilitate implementation of the Settlement.

(d) MITIGATION OF IMPACTS.—Prior to the implementation of decisions or agreements to construct, improve, operate, or maintain facilities that the Secretary determines are needed to implement the Settlement, the Secretary shall identify—

(1) the impacts associated with such actions; and

(2) the measures which shall be implemented to mitigate impacts on adjacent and downstream water users and landowners.

(e) DESIGN AND ENGINEERING STUDIES.—The Secretary is authorized to conduct any design or engineering studies that are necessary to implement the Settlement.

(f) EFFECT ON CONTRACT WATER ALLOCATIONS.—Except as otherwise provided in this section, the implementation of the Settlement and the reintroduction of California Central Valley Spring Run Chinook salmon pursuant to the Settlement and section 10, shall not result in the involuntary reduction in contract water allocations to Central Valley Project long-term contractors, other than Friant Division long-term contractors.

(g) EFFECT ON EXISTING WATER CONTRACTS.—Except as provided in the Settlement and this Act, nothing in this Act shall modify or amend the rights and obligations of the parties to any existing water service, repayment, purchase or exchange contract.

SEC. 5. ACQUISITION AND DISPOSAL OF PROPERTY; TITLE TO FACILITIES.

(a) TITLE TO FACILITIES.—Unless acquired pursuant to subsection (b), title to any facility or facilities, stream channel, levees, or other real property modified or improved in the course of implementing the Settlement authorized by this Act, and title to any modifications or improvements of such facility or facilities, stream channel, levees, or other real property—

(1) shall remain in the owner of the property; and

(2) shall not be transferred to the United States on account of such modifications or improvements.

(b) ACQUISITION OF PROPERTY.—

(1) IN GENERAL.—The Secretary is authorized to acquire through purchase from willing sellers any property, interests in property, or options to acquire real property needed to implement the Settlement authorized by this Act.

(2) APPLICABLE LAW.—The Secretary is authorized, but not required, to exercise all of the authorities provided in section 2 of the Act of August 26, 1937 (50 Stat. 844, chapter 832), to carry out the measures authorized in this section and section 4.

(c) DISPOSAL OF PROPERTY.—

(1) IN GENERAL.—Upon the Secretary's determination that retention of title to property or interests in property acquired pursuant to this Act is no longer needed to be held by the United States for the furtherance of the Settlement, the Secretary is authorized to dispose of such property or interest in property on such terms and conditions as the Secretary deems appropriate and in the best interest of the United States, including possible transfer of such property to the State of California.

(2) RIGHT OF FIRST REFUSAL.—In the event the Secretary determines that property acquired pursuant to this Act through the exercise of its eminent domain authority is no longer necessary for implementation of the Settlement, the Secretary shall provide a right of first refusal to the property owner

from whom the property was initially acquired, or his or her successor in interest, on the same terms and conditions as the property is being offered to other parties.

(3) DISPOSITION OF PROCEEDS.—Proceeds from the disposal by sale or transfer of any such property or interests in such property shall be deposited in the fund established by section 9(c).

SEC. 6. COMPLIANCE WITH APPLICABLE LAW.

(a) APPLICABLE LAW.—

(1) IN GENERAL.—In undertaking the measures authorized by this Act, the Secretary and the Secretary of Commerce shall comply with all applicable Federal and State laws, rules, and regulations, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as necessary.

(2) ENVIRONMENTAL REVIEWS.—The Secretary and the Secretary of Commerce are authorized and directed to initiate and expeditiously complete applicable environmental reviews and consultations as may be necessary to effectuate the purposes of the Settlement.

(b) EFFECT ON STATE LAW.—Nothing in this Act shall preempt State law or modify any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law.

(c) USE OF FUNDS FOR ENVIRONMENTAL REVIEWS.—

(1) DEFINITION OF ENVIRONMENTAL REVIEW.—For purposes of this subsection, the term ''environmental review'' includes any consultation and planning necessary to comply with subsection (a).

(2) PARTICIPATION IN ENVIRONMENTAL REVIEW PROCESS.—In undertaking the measures authorized by section 4, and for which environmental review is required, the Secretary may provide funds made available under this Act to affected Federal agencies, State agencies, local agencies, and Indian tribes if the Secretary determines that such funds are necessary to allow the Federal agencies, State agencies, local agencies, or Indian tribes to effectively participate in the environmental review process.

(3) LIMITATION.—Funds may be provided under paragraph (2) only to support activities that directly contribute to the implementation of the terms and conditions of the Settlement.

(d) NONREIMBURSABLE FUNDS.—The United States' share of the costs of implementing this Act shall be nonreimbursable under Federal reclamation law, provided that nothing in this subsection shall limit or be construed to limit the use of the funds assessed and collected pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727), for implementation of the Settlement, nor shall it be construed to limit or modify existing or future Central Valley Project Ratesetting Policies.

SEC. 7. COMPLIANCE WITH CENTRAL VALLEY PROJECT IMPROVEMENT ACT.

Congress hereby finds and declares that the Settlement satisfies and discharges all of the obligations of the Secretary contained in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), provided, however, that—

(1) the Secretary shall continue to assess and collect the charges provided in section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721), as provided in the Settlement and section 9(d); and

(2) those assessments and collections shall continue to be counted towards the requirements of the Secretary contained in section 3407(c)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4726).

SEC. 8. NO PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Nothing in this Act confers upon any person or entity not a party to the Settlement a private right of action or claim for relief to interpret or enforce the provisions of this Act or the Settlement.

(b) APPLICABLE LAW.—This section shall not alter or curtail any right of action or claim for relief under any other applicable law.

SEC. 9. APPROPRIATIONS; SETTLEMENT FUND.

(a) IMPLEMENTATION COSTS.—

(1) IN GENERAL.—The costs of implementing the Settlement shall be covered by payments or in kind contributions made by Friant Division contractors and other non-Federal parties, including the funds provided in paragraphs (1) through (5) of subsection (c), estimated to total $440,000,000, of which the non-Federal payments are estimated to total $200,000,000 (at October 2006 price levels) and the amount from repaid Central Valley Project capital obligations is estimated to total $240,000,000, the additional Federal appropriation of $250,000,000 authorized pursuant to subsection (b)(1), and such additional funds authorized pursuant to subsection (b)(2); provided however, that the costs of implementing the provisions of section 4(a)(1) shall be shared by the State of California pursuant to the terms of a Memorandum of Understanding executed by the State of California and the Parties to the Settlement on September 13, 2006, which includes at least $110,000,000 of State funds.

(2) ADDITIONAL AGREEMENTS.—

(A) IN GENERAL.—The Secretary shall enter into 1 or more agreements to fund or implement improvements on a project-by-project basis with the State of California.

(B) REQUIREMENTS.—Any agreements entered into under subparagraph (A) shall provide for recognition of either monetary or in-kind contributions toward the State of California's share of the cost of implementing the provisions of section 4(a)(1).

(3) LIMITATION.—Except as provided in the Settlement, to the extent that costs incurred solely to implement this Settlement would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to the funds provided in paragraphs (1) through (5) of subsection (c), there are also authorized to be appropriated not to exceed $250,000,000 (at October 2006 price levels) to implement this Act and the Settlement, to be available until expended; provided however, that the Secretary is authorized to spend such additional appropriations only in amounts equal to the amount of funds deposited in the Fund (not including payments under subsection (c)(2), proceeds under subsection (c)(3) other than an amount equal to what would otherwise have been deposited under subsection (c)(1) in the absence of issuance of the bond, and proceeds under subsection (c)(4)), the amount of in-kind contributions, and other non-Federal payments actually committed to the implementation of this Act or the Settlement.

(2) OTHER FUNDS.—The Secretary is authorized to use monies from the Fund created under section 3407 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4727) for purposes of this Act.

(c) FUND.—There is hereby established within the Treasury of the United States a fund, to be known as the ''San Joaquin River Restoration Fund'', into which the following shall be deposited and used solely for the purpose of implementing the Settlement, to be available for expenditure without further appropriation:

(1) Subject to subsection (d), at the beginning of the fiscal year following enactment of this Act, all payments received pursuant to section 3406(c)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721).

(2) Subject to subsection (d), the capital component (not otherwise needed to cover operation and maintenance costs) of payments made by Friant Division long-term contractors pursuant to long-term water service contracts beginning the first fiscal year after the date of enactment of this Act. The capital repayment obligation of such contractors under such contracts shall be reduced by the amount paid pursuant to this paragraph and the appropriate share of the existing Federal investment in the Central Valley Project to be recovered by the Secretary pursuant to Public Law 99-546 (100 Stat. 3050) shall be reduced by an equivalent sum.

(3) Proceeds from a bond issue, federally-guaranteed loan, or other appropriate financing instrument, to be issued or entered into by an appropriate public agency or subdivision of the State of California pursuant to subsection (d)(2).

(4) Proceeds from the sale of water pursuant to the Settlement, or from the sale of property or interests in property as provided in section 5.

(5) Any non-Federal funds, including State cost-sharing funds, contributed to the United States for implementation of the Settlement, which the Secretary may expend without further appropriation for the purposes for which contributed.

(d) GUARANTEED LOANS AND OTHER FINANCING INSTRUMENTS.—

(1) IN GENERAL.—The Secretary is authorized to enter into agreements with appropriate agencies or subdivisions of the State of California in order to facilitate a bond issue, federally-guaranteed loan, or other appropriate financing instrument, for the purpose of implementing this Settlement.

(2) REQUIREMENTS.—If the Secretary and an appropriate agency or subdivision of the State of California enter into such an agreement, and if such agency or subdivision issues 1 or more revenue bonds, procures a federally secured loan, or other appropriate financing to fund implementation of the Settlement, and if such agency deposits the proceeds received from such bonds, loans, or financing into the Fund pursuant to subsection (c)(3), monies specified in paragraphs (1) and (2) of subsection (c) shall be provided by the Friant Division long-term contractors directly to such public agency or subdivision of the State of California to repay the bond, loan or financing rather than into the Fund.

(3) DISPOSITION OF PAYMENTS.—After the satisfaction of any such bond, loan, or financing, the payments specified in paragraphs (1) and (2) of subsection (c) shall be paid directly into the Fund authorized by this section.

(e) LIMITATION ON CONTRIBUTIONS.—Payments made by long-term contractors who receive water from the Friant Division and Hidden and Buchanan Units of the Central Valley Project pursuant to sections 3406(c)(1) and 3407(d)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4721, 4727) and payments made pursuant to paragraph 16(b)(3) of the Settlement and subsection (c)(2) shall be the limitation of such entities'

direct financial contribution to the Settlement, subject to the terms and conditions of paragraph 21 of the Settlement.

(f) NO ADDITIONAL EXPENDITURES REQUIRED.—Nothing in this Act shall be construed to require a Federal official to expend Federal funds not appropriated by Congress, or to seek the appropriation of additional funds by Congress, for the implementation of the Settlement.

(g) REACH 4B.—

(1) STUDY.—

(A) IN GENERAL.—In accordance with the Settlement and the Memorandum of Understanding executed pursuant to paragraph 6 of the Settlement, the Secretary shall conduct a study that specifies—

(i) the costs of undertaking any work required under paragraph 11(a)(3) of the Settlement to increase the capacity of Reach 4B prior to reinitiation of Restoration Flows;

(ii) the impacts associated with reinitiation of such flows; and

(iii) measures that shall be implemented to mitigate impacts.

(B) DEADLINE.—The study under subparagraph (A) shall be completed prior to restoration of any flows other than Interim Flows.

(2) REPORT.—

(A) IN GENERAL.—The Secretary shall file a report with Congress not later than 90 days after issuing a determination, as required by the Settlement, on whether to expand channel conveyance capacity to 4500 cubic feet per second in Reach 4B of the San Joaquin River, or use an alternative route for pulse flows, that—

(i) explains whether the Secretary has decided to expand Reach 4B capacity to 4500 cubic feet per second; and

(ii) addresses the following matters:

(I) The basis for the Secretary's determination, whether set out in environmental review documents or otherwise, as to whether the expansion of Reach 4B would be the preferable means to achieve the Restoration Goal as provided in the Settlement, including how different factors were assessed such as comparative biological and habitat benefits, comparative costs, relative availability of State cost-sharing funds, and the comparative benefits and impacts on water temperature, water supply, private property, and local and downstream flood control.

(II) The Secretary's final cost estimate for expanding Reach 4B capacity to 4500 cubic feet per second, or any alternative route selected, as well as the alternative cost estimates provided by the State, by the Restoration Administrator, and by the other parties to the Settlement.

(III) The Secretary's plan for funding the costs of expanding Reach 4B or any alternative route selected, whether by existing Federal funds provided under this Act, by non-Federal funds, by future Federal appropriations, or some combination of such sources.

(B) DETERMINATION REQUIRED.—The Secretary shall, to the extent feasible, make the determination in subparagraph (A) prior to undertaking any substantial construction work to increase capacity in Reach 4B.

(3) COSTS.—If the Secretary's estimated Federal cost for expanding Reach 4B in paragraph (2), in light of the Secretary's funding plan set out in paragraph (2), would exceed the remaining Federal funding authorized by this Act (including all funds reallocated, all funds dedicated, and all new funds authorized by this Act and separate from all commitments of State and other non-Federal funds and in-kind commitments), then before the Secretary commences actual construction work in Reach 4B (other than planning, design, feasibility, or other preliminary measures) to expand capacity to 4500 cubic feet per second to implement this Settlement, Congress must have increased the applicable authorization ceiling provided by this Act in an amount at least sufficient to cover the higher estimated Federal costs.

SEC. 10. CALIFORNIA CENTRAL VALLEY SPRING RUN CHINOOK SALMON.

(a) FINDING.—Congress finds that the implementation of the Settlement to resolve 18 years of contentious litigation regarding restoration of the San Joaquin River and the reintroduction of the California Central Valley Spring Run Chinook salmon is a unique and unprecedented circumstance that requires clear expressions of Congressional intent regarding how the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are utilized to achieve the goals of restoration of the San Joaquin River and the successful reintroduction of California Central Valley Spring Run Chinook salmon.

(b) REINTRODUCTION IN THE SAN JOAQUIN RIVER.—California Central Valley Spring Run Chinook salmon shall be reintroduced in the San Joaquin River below Friant Dam pursuant to section 10(j) of the Endangered Species Act of 1973 (16 U.S.C. 1539(j)) and the Settlement, provided that the Secretary of Commerce finds that a permit for the reintroduction of California Central Valley Spring Run Chinook salmon may be issued pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

(c) FINAL RULE.—

(1) DEFINITION OF THIRD PARTY.—For the purpose of this subsection, the term ''third party'' means persons or entities diverting or receiving water pursuant to applicable State and Federal law and shall include Central Valley Project contractors outside of the Friant Division of the Central Valley Project and the State Water Project.

(2) ISSUANCE.—The Secretary of Commerce shall issue a final rule pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) governing the incidental take of reintroduced California Central Valley Spring Run Chinook salmon prior to the reintroduction.

(3) REQUIRED COMPONENTS.—The rule issued under paragraph (2) shall provide that the reintroduction will not impose more than de minimis: water supply reductions, additional storage releases, or bypass flows on unwilling third parties due to such reintroduction.

(4) APPLICABLE LAW.—Nothing in this section—

(A) diminishes the statutory or regulatory protections provided in the Endangered Species Act for any species listed pursuant to section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) other than the reintroduced population of California Central Valley Spring Run Chinook salmon, including protections pursuant to existing biological opinions or new biological opinions issued by the Secretary or Secretary of Commerce; or

(B) precludes the Secretary or Secretary of Commerce from imposing protections under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for other species listed pursuant to section 4 of that Act (16 U.S.C. 1533) because those protections provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2024, the Secretary of Commerce shall report to Congress on the progress made on the reintroduction set forth in this section and the Secretary's plans for future implementation of this section.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) an assessment of the major challenges, if any, to successful reintroduction;

(B) an evaluation of the effect, if any, of the reintroduction on the existing population of California Central Valley Spring Run Chinook salmon existing on the Sacramento River or its tributaries; and

(C) an assessment regarding the future of the reintroduction.

(e) FERC PROJECTS.—

(1) IN GENERAL.—With regard to California Central Valley Spring Run Chinook salmon reintroduced pursuant to the Settlement, the Secretary of Commerce shall exercise its authority under section 18 of the Federal Power Act (16 U.S.C. 811) by reserving its right to file prescriptions in proceedings for projects licensed by the Federal Energy Regulatory Commission on the Calaveras, Stanislaus, Tuolumne, Merced, and San Joaquin rivers and otherwise consistent with subsection (c) until after the expiration of the term of the Settlement, December 31, 2025, or the expiration of the designation made pursuant to subsection (b), whichever ends first.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection shall preclude the Secretary of Commerce from imposing prescriptions pursuant to section 18 of the Federal Power Act (16 U.S.C. 811) solely for other anadromous fish species because those prescriptions provide incidental benefits to such reintroduced California Central Valley Spring Run Chinook salmon.

(f) EFFECT OF SECTION.—Nothing in this section is intended or shall be construed—

(1) to modify the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.); or

(2) to establish a precedent with respect to any other application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the Federal Power Act (16 U.S.C. 791a et seq.).

By Mr. DEWINE:

S. 4086. A bill to improve data collection efforts with respect to the safety of pregnant women and unborn children in motor vehicle crashes, provide for research and development of appropriate countermeasures, educate the public regarding motor vehicle safety risks affecting pregnant women and unborn children, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, during my 12 years in the Senate, I have always fought to increase our Nation's commitment to children's health and safety. One of the areas where I have had the privilege of working together with Democrats and Republicans on children's issues is highway safety. Whether the matter at hand was making school buses safer or enacting new motor vehicle safety standards that protect small children in crashes, I have always been fortunate to find fellow Senators committed to crafting legislation that will make a difference in children's lives.

One of the things I have learned over the years is that the research, testing, and public awareness programs operated by the National Highway Traffic Safety Administration—NHTSA—play a major role helping prevent injuries and saving lives on our roads. We lose over 42,000 lives each year in motor vehicle crashes, but that total would be astronomically higher without the work done by NHTSA and its partners. As vehicles have changed, technologies

have matured, and the safety challenges facing the driving public have shifted over time, NHTSA has responded by instituting new programs. Sometimes, however, it takes a little action by Congress to get NHTSA moving on these important safety objectives.

Today, I rise to introduce a measure that I hope my colleagues will consider in the future as they continue to work on highway safety issues. I also hope that this bill might spur additional action by NHTSA.

In speaking with leading safety advocates, I have come to understand just how significant the safety challenges are for pregnant women and their unborn children in motor vehicle crashes. Yet despite these great challenges and the importance we all place on ensuring maternal health and safety, we know very little about the way crash forces affect mothers and their unborn children over both the short-term and long-term. While university researchers have begun to document some of the chief safety challenges facing pregnant mothers, we need to do more to fully understand these issues and to develop ways of applying what we have learned in manufacturing vehicles that are safer for pregnant women and their unborn children.

Additionally, we need to do a better job communicating the immediate and lifelong safety risks associated with motor vehicle crashes to pregnant mothers so that they can do everything possible to ensure not only their own health, but that of their babies. Sometimes, these steps may be as simple as making sure that safety belts are worn and positioned properly. At some point, technologies may become available on the market designed specifically to cater to the motor vehicle safety needs of pregnant women.

To achieve these goals and ultimately to prevent injuries and save lives, we need NHTSA to act and we need to provide new resources for research and testing. The bill I am introducing today does precisely that.

The Maternal Motor Vehicle Crash Safety Act of 2006 addresses these issues in a number of ways. First, the bill presents findings defining the challenges facing pregnant women and their unborn children in motor vehicle crashes. I particularly want to thank Dr. Hank Weiss of the University of Pittsburgh for his assistance in bringing this important research to my attention.

Second, the bill contains sections providing incentives for states to link various databases in a way that will lead to a better understanding of the number of mothers and babies that are impacted by motor vehicle crashes each year and what the long-term health impacts are for children who were involved in crashes before being born. Furthermore, the bill sets several high priority research areas for NHTSA, including an investigation into computer modeling systems and biofidelic crash-test dummies capable of simulating a pregnant woman and her child during dangerous crashes. Sadly, we have functional dummies that accurately simulate men, women, and children—but none for pregnant women.

I strongly urge my colleagues to take up and pass this legislation during the 110th Congress. Members of the Senate and leaders at NHTSA work hard every year to do their best to improve highway safety here in the United States, and I believe the measures outlined in this bill have the potential to make a lasting contribution to those efforts in the years ahead.

Mr. President, I ask unanimous consent that the text of the bill, the Maternal Motor Vehicle Crash Safety Act of 2006, be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 4086

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Maternal Motor Vehicle Crash Safety Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Highway Traffic Safety Administration.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Appropriations and Committee on Commerce, Science, and Transportation of the Senate and the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives.

(3) BIOFIDELIC.—The term ''biofidelic'' means having the property of responding to and being impacted by crash and other external forces in a manner directly consistent with the way in which a live human being would respond to and be impacted by such forces.

(4) DATA LINKAGE SYSTEM.—The term ''data linkage system'' means an information system that is capable of accurately tracking adverse health effects and birth outcomes for pregnant women who are occupants of a motor vehicle that is involved in a crash and the unborn children of such women, through the connection and analysis of multiple data sources.

(5) UNBORN CHILD.—The term ''unborn child'' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Injuries are the leading cause of pregnancy-associated deaths in the United States.

(2) Motor vehicle crashes are the leading cause of injury deaths in women of reproductive age and the leading cause of injury hospitalizations among pregnant women.

(3) Studies have indicated that motor vehicles are estimated to account for up to 80 percent of injury related deaths among unborn children.

(4) Transportation Research Board publications indicate that deaths among unborn children due to motor vehicle crashes are more frequent than several notable fatal childhood injuries, including bicycle related deaths in children aged 0 through 15, firearm related deaths in children aged 0 through 9, and motor vehicle crash related deaths in children aged 0 through 1.

(5) Studies suggest that approximately 3 percent of all babies born in the United States are involved in a motor vehicle crash while in utero.

(6) Studies have shown that elevated risks of birth-related threats and obstetric complications following crashes involving pregnant women include—

(A) premature childbirth;

(B) low birth weight;

(C) placental injury;

(D) uterine rupture; and

(E) amniotic rupture.

(7) Despite advances in vehicle safety, pregnant women have not received the special attention and consideration needed to understand, reduce, and prevent the risks of adverse pregnancy outcomes related to crashes.

(8) There is a need for more research and application using anthropometric test devices and computerized modeling systems that represent pregnant women during all stages of pregnancy.

(9) During pregnancy, the risks of traumatic injury to a woman is shared by the woman's unborn child. Assessing the magnitude and characteristics of those risks through data linkage systems, comparing the risks to other injuries and diseases, and reducing them, are important unmet challenges for improving maternal and child health.

(10) A better understanding is needed about what can happen during, and after, a pregnant woman is involved in a motor vehicle crash. This includes the effects of a crash on the mother, the unborn child, and the delicate physiological balance between the mother and child that separates healthy from unhealthy pregnancies, including the effects of maternal physiologic adaptations to trauma, fluid loss and shock, effects from maternal stress, effects from diagnostic regimens, medical or surgical procedures, or the wide variety of prescription medicines, and other medication taken by the mother.

(11) Despite the importance of the health of mothers and unborn children involved in motor vehicle crashes, agencies and data linkage systems responsible for tracking motor vehicle injuries, deaths, and other measures of adverse outcome rarely capture pregnancy status.

(12) Existing data collection and analysis systems generally do not count unborn children involved in motor vehicle crashes and do not follow them after their birth to ascertain the effects of the crash on long-term neuro-developmental and functional outcomes.

SEC. 4. SENSE OF CONGRESS ON IMPROVEMENTS TO THE NATIONAL AUTOMOTIVE SAMPLING SYSTEM CRASHWORTHINESS DATA SYSTEM.

It is the sense of Congress that the Administrator—

(1) should continue to include in the National Automotive Sampling System Crashworthiness Data System maintained by the Administrator data related to motor vehicle crashes that involved a pregnant women; and

(2) should identify other means to advance the current level of understanding regarding the number, nature, and impact of motor vehicle crashes involving pregnant women and their unborn children through data collection, data linkage systems, and analysis systems.

SEC. 5. GRANTS FOR DATA LINKAGE SYSTEMS PROGRAMS.

(a) IN GENERAL.—The Administrator shall, in consultation with appropriate officials of

State agencies or public health organizations, carry out a program to provide grants and other incentives, including technical assistance to eligible entities for the purpose described in subsection (b).

(b) PURPOSE.—A grant or other incentive provided under this section shall be used to promote the development of data linkage systems described in subsection (e).

(c) ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means an academic, public health, or transportation safety organization or a State or local government agency that the Administrator determines is appropriate to receive a grant or incentive under this section.

(d) APPLICATION AND AWARD PROCESS.—

(1) APPLICATIONS.—Each eligible entity seeking a grant under this section shall submit an application to the Administrator at such time and in such manner as the Administrator may require.

(2) AWARDS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall establish—

(A) the criteria for awarding a grant or incentive under this section; and

(B) a competitive, merit-based process to select applications to receive a grant or incentive under this section.

(3) PUBLICATION.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register the criteria and process described in paragraph (2).

(e) PROGRAM STRUCTURE.—The data linkage systems eligible to receive assistance under this section are systems that use the following sources:

(1) State and local vital statistics databases, including birth, infant, and death records.

(2) State and local crash and driver's license records.

(3) Other computerized health records as available, including emergency medical services reports and hospital and emergency room admission and discharge records.

(f) EXISTING DATA SYSTEMS.—To the maximum extent possible, the Administrator shall integrate the grant and incentive program carried out under this section with the existing State specific Crash Outcome Data Evaluation Systems carried out by the Administrator to utilize the capabilities, linkage expertise, and organizational relationships of such Systems to provide a foundation for improving the tracking of adverse health effects and birth outcomes for pregnant women who are occupants of a motor vehicle at the time of a crash and their unborn children.

(g) DATA SECURITY AND PRIVACY.—In carrying out this section, the Administrator and any eligible entity selected to receive a grant or incentive under this section for a data linkage system shall ensure that personal identifiers and other information utilized in that data linkage system related to a specific individual is handled in a manner consistent with all applicable Federal, State, and local laws and regulations and to ensure the confidentiality of such information, and in the manner necessary to prevent the theft, manipulation, or other unlawful or unauthorized use of personal information contained in data sources used for linkage studies.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $2,500,000 for each of the fiscal years 2007, 2008, 2009, and 2010 to carry out this section.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 6. SAFETY RESEARCH PROGRAM AND NATIONAL CONFERENCE.

(a) SAFETY RESEARCH PROGRAM.—

(1) REQUIREMENT TO CONDUCT.—The Administrator shall conduct a research program as described in this section to promote the health and safety of pregnant women who are involved in motor vehicle crashes and of their unborn children.

(2) HIGH PRIORITY RESEARCH AREAS.—In carrying out the research program under this section, the Administrator shall place a high priority on conducting research to—

(A) investigate methods to maximize the injury prevention performance of standard 3-point safety belts for pregnant women during all stages of pregnancy;

(B) analyze the effectiveness of technologies designed to modify or extend the safety performance of 3-point safety belts for pregnant women across a range of pregnancy phases, including technologies currently available in the marketplace;

(C) develop biofidelic, anthropometric test devices that are representative of pregnant women during all stages of pregnancy; and

(D) develop biofidelic, computer models that are representative of pregnant women during all stages of pregnancy to aid in understanding crash forces relevant to the safety of pregnant women and unborn children that may include the utilization of existing modeling systems developed by private and academic institutions, if appropriate.

(b) NATIONAL CONFERENCE.—

(1) REQUIREMENT TO CONVENE.—Not later than 18 months after the date of the enactment of this Act, the Administrator, in consultation with the heads of other appropriate Federal agencies, shall convene a national research conference for the purpose of identifying critical scientific issues for research on the safety of pregnant women involved in motor vehicle crashes and their unborn children.

(2) PURPOSE OF THE CONFERENCE.—The purpose of the conference required by paragraph (1) shall be to establish and prioritize a list of research questions to guide future research related to the safety of pregnant women involved in motor vehicle crashes and their unborn children.

(3) AUTHORITY TO PARTNER WITH OTHER ORGANIZATIONS.—The Administrator is authorized to carry out the conference required by paragraph (1) in a partnership with organizations recognized for expertise related to the research described in paragraph (2).

(c) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to the appropriate congressional committees a report that describes—

(1) the research program carried out by the Administration pursuant to subsection (a), including any findings or conclusions associated with such research program; and

(2) the priorities established at the national conference required by subsection (b), plans for regulations or future programs, or factors limiting the effectiveness of such research.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For each of the fiscal years 2007, 2008, and 2009, there are authorized to be appropriated such sums as necessary to carry out this section.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 7. PUBLIC OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Administrator shall conduct a public outreach and education program to increase awareness of the unique safety risks associated with motor vehicle crashes for pregnant women and the unborn children of such women and of the methods available to reduce such risks. Such program shall include making information regarding the injury-prevention value of proper safety belt and airbag use available to the public.

(b) TARGETED OUTREACH.—The Administrator shall carry out the program described in subsection (a) in a manner that utilizes media and organizational partners to effectively educate pregnant women, ensure an overall educational impact, and efficiently utilize the program's resources.

(c) PROGRAM INITIATION AND DURATION.—The Administrator shall initiate the program described in subsection (a) not later than 12 months after the date of the enactment of this Act, and shall maintain such program for not less than 24 months, subject to the availability of funds.

SEC. 8. INCLUSION OF SAFETY DATA IN ANNUAL ASSESSMENT.

(a) IN GENERAL.—Subject to subsection (b), the Administrator shall include a discussion of data regarding the safety of pregnant women who are involved in motor vehicle crashes and of their unborn children, including any relevant trends in such data, in each of the Annual Assessment of Motor Vehicle Crashes published by the National Center for Statistics and Analysis of the National Highway Traffic Safety Administration or an equivalent publication of such Center.

(b) REPORT TO CONGRESS.—If the Administrator determines that including the information described in subsection (a) in the Annual Assessment of Motor Vehicle Crashes or an equivalent publication is not feasible, the Administrator shall submit a report to the appropriate congressional committees not later than 60 days after the date of the release of such Annual Assessment or equivalent publication that states the reasons that it was not feasible to include such information and an analysis of the steps necessary to make such information available in the future.

By Mr. CRAPO (for himself, Mrs. LINCOLN, Mr. GRASSLEY, Mr. BAUCUS, and Mr. ALLARD).

S. 4087. A bill to amend the Internal Revenue Code to provide a tax credit to individuals who enter into agreements to protect the habitats of endangered and threatened species, and for other purposes; to the Committee on Finance.

Mr. CRAPO. Mr. President, I rise today with my colleagues—Senator LINCOLN from Arkansas, Senator CHARLES GRASSLEY from Iowa, and Senator MAX BAUCUS from Montana—to introduce the Endangered Species Recovery Act or ESRA. Nearly a year ago, Senator LINCOLN and I introduced the Collaboration for the Recovery of the Endangered Species Act, or CRESA, an earlier bill to amend the Endangered Species Act or ESA. This new bill, which does not amend the current ESA, builds on ideas set forth in CRESA. It creates new policies that finance the recovery of endangered species by private landowners. ESRA makes it simpler for landowners to get involved in conservation and reduces the conflict often emanating from the ESA. It will be an important codification of much-needed incentives to help recover endangered species.

Over 80 percent of endangered species live on private property. Under the current law, however, there are too few incentives and too many obstacles for

private landowners to participate in conservation agreements to help recover species under the ESA. ESRA, like the voluntary farm bill conservation programs that inspired its creation, will make it more attractive for private landowners to contribute to the recovery of species under the ESA.

This bill resulted from effective and inclusive collaboration among key stakeholders most affected by the implementation of the ESA. Landowner interests include farmers, ranchers, and those from the natural resource-using communities. For example, some current supporters of ESRA who contributed invaluable advice are the American Farm Bureau, the National Cattlemen's Beef Association, and the Society of American Foresters. This could not rightly be called a collaborative project without the vital and necessary input received from the Defenders of Wildlife, Environmental Defense and the National Wildlife Federation—key environmental groups that made significant contributions. And they further understand that landowners must be treated as allies to ensure success in the long-run for the conservation of habitat and species. Finally, while the genesis of this bill has many roots, a passionate catalyst was James Cummins of Mississippi Fish and Wildlife Foundation, whose passion for the outdoors provided inspiration to move these ideas forward.

This collaborative expertise worked together to craft the ESRA, which provides new tax incentives for private landowners who voluntarily contribute to the recovery of endangered species. The tax credits will reimburse landowners for property rights affected by agreements that include conservation easements and costs incurred by species management plans. For landowners who limit their property rights through conservation easements, there will be 100 percent compensation of all costs. That percentage declines to 75 percent for 30-year easements and 50 percent for cost-share agreements not encumbered by an easement.

It is worth noting that this is the same formula that works successfully for farm bill programs such as the Wetlands Reserve Program. Private property owners are appropriately rewarded for crucial ecological services that they provide with their property. The public benefits from those actions which ensure biodiversity; instead of placing the financial burdens on the landowner, we ought to find appropriate ways to compensate them. While the primary returns from this investment are protection and recovery of endangered species, the public will also undoubtedly gain additional benefits such as aesthetically pleasing open space, combating invasive species and enhanced water quality.

The legislation provides a list of options that give landowners a choice, and this is a crucial element for the success of this proposal. For some landowners, a conservation easement will be the most attractive option. Easements are flexible tools that can be tailored to each landowner and species' interests. An easement restricts certain activities, but it still works well with traditional rural activities such as ranching and farming. For agreements without easements, there is flexibility to do what is necessary for the concerned species without the need to sacrifice property rights into perpetuity.

The tax credits provide essential funding that is necessary to respect private property rights. Wildlife should be an asset rather than a liability; which is how it has sometimes been viewed under the ESA. With wildlife becoming valuable to a landowner, those who may been reluctant to participate in recovery efforts in the past will be more likely to contribute with these incentives. When people want to take part in the process and do not fear it, the likelihood of conflict and litigation is reduced. For years, this type of conflict has proven costly not only in dollars to individuals and the government, but also in terms of relationships between people who share the land and natural resources. With a new trust and new model for finding conservation solutions, we can do more and better conservation work.

Provisions have been made to accommodate landowners whose taxes may be less than the tax credit provides. Partnerships in the agreements will allow any party to an agreement to receive a credit as long as they pay or incur costs as a result of the agreement. This language will allow creative collaboration among governments, landowners, taxpayers and environmentalists, further increasing the number of people involved in finding new solutions for conservation.

Furthermore, this bill also expands tax deductions for any landowner who takes part in the recovery plans approved under the ESA, and allows landowners to exclude from taxable income certain federal payments under conservation costshare programs. This will allow both individuals and businesses to deduct the cost of recovery work without bureaucratic obstacles.

This bill not only sets forth the financing for private landowners, but it also makes it easier to implement the agreements. Landowners will receive technical assistance to implement the agreements. Also, to remove some legal disincentives to recover species, liability protection may be provided to protect the landowners from penalties under the ESA. This removes the fear of trying to help species; currently, more species usually just means more liability for a landowner.

As a result of these incentives, I expect to see a phenomenal increase in the number of success stories. These stories will sound familiar to those creative collaborators working on the ground now where we have learned that the types of tools provided in this bill can work if consistently offered.

The Endangered Species Recovery Act is very exciting to those of us who value protecting our natural resources. It provides collaborative, creative ways to balance resource conservation with economic uses of our natural resources and preserving rural ways of life. I look forward to working with my colleagues in the Senate and House to move ahead with this legislation which will allow better, more effective conservation work for future generations.

I am deeply grateful to my colleagues from Arkansas, Iowa and Montana for their essential expertise and support to create ESRA. I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 4087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Endangered Species Recovery Act of 2006''.

SEC. 2. ENDANGERED SPECIES RECOVERY CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 30D. ENDANGERED SPECIES RECOVERY CREDIT.

''(a) IN GENERAL.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the habitat protection easement credit, plus

''(2) the habitat restoration credit.

''(b) LIMITATION.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any eligible taxpayer for any taxable year shall not exceed the endangered species recovery credit limitation allocated to the eligible taxpayer under subsection (f) for the calendar year in which the taxpayer's taxable year ends.

''(2) CARRYFORWARDS.—

''(A) IN GENERAL.—If the amount of the credit allowable under subsection (a) for any taxpayer for any taxable year exceeds the endangered species recovery credit limitation allocated under subsection (f) to such taxpayer for the calendar year in which the taxpayer's taxable year ends, such excess may be carried forward to the next taxable year for which such taxpayer is allocated a portion of the endangered species recovery credit limitation.

''(B) CARRYFORWARD OF ALLOCATION AMOUNT.—If the amount of the endangered species recovery credit limitation allocated to an eligible taxpayer for any calendar year under subsection (f) exceeds the amount of the credit allowed to the taxpayer under subsection (a) for the taxable year ending in such calendar year, such excess may be carried forward to the next taxable year of the taxpayer. For purposes of this paragraph, any amount carried to another taxable year under this subparagraph shall be treated as allocated to the taxpayer for use in such taxable year under subsection (f).

''(c) ELIGIBLE TAXPAYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible taxpayer' means—

''(A) a taxpayer who—

''(i) owns real property which contains the habitat of a qualified species, and

''(ii) enters into a qualified perpetual habitat protection agreement, a qualified 30-year habitat protection agreement, or a qualified habitat protection agreement with the appropriate Secretary with respect to such real property, and

''(B) any other taxpayer who—

''(i) is a party to a qualified perpetual habitat protection agreement, a qualified 30-year habitat protection agreement, or a qualified habitat protection agreement, and

''(ii) as part of any such agreement, agrees to assume responsibility for costs paid or incurred in protecting or preserving the habitat which is the subject of such agreement.

''(2) QUALIFIED PERPETUAL HABITAT PROTECTION AGREEMENT.—The term 'qualified perpetual habitat protection agreement' means an agreement—

''(A) under which the taxpayer grants to the appropriate Secretary, the Secretary of Agriculture, or a State an easement in perpetuity for the protection of the habitat of a qualified species, and

''(B) which meets the requirements of paragraph (5).

''(3) QUALIFIED 30-YEAR HABITAT PROTECTION AGREEMENT.—The term 'qualified 30-year habitat protection agreement' means an agreement—

''(A) under which the taxpayer grants to the appropriate Secretary, the Secretary of Agriculture, or a State an easement for a period of not less than 30 years and less than perpetuity for the protection of the habitat of a qualified species, and

''(B) which meets the requirements of paragraph (5).

''(4) QUALIFIED HABITAT PROTECTION AGREEMENT.—The term 'qualified habitat protection agreement' means an agreement—

''(A) under which the taxpayer enters into an agreement with the appropriate Secretary, the Secretary of Agriculture, or a State to protect the habitat of a qualified species for a specified period of time, and

''(B) which meets the requirements of paragraph (5).

''(5) REQUIREMENTS.—An agreement meets the requirements of this paragraph if—

''(A) the agreement is not inconsistent with any recovery plan which has been approved for a qualified species under section 4 of the Endangered Species Act of 1973,

''(B) the appropriate Secretary and the eligible taxpayer enter into a habitat management plan designed to—

''(i) restore or enhance the habitat of a qualified species, or

''(ii) reduce threats to a qualified species through the management of the habitat, and

''(C) the appropriate Secretary ensures that the eligible taxpayer is provided with technical assistance in carrying out the duties of the taxpayer under the terms of the agreement.

''(d) HABITAT PROTECTION EASEMENT CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a)(1), the habitat protection easement credit for any taxable year is an amount equal to—

''(A) in the case of an eligible taxpayer who has entered into a qualified perpetual habitat protection agreement during such taxable year, 100 percent of the excess (if any) of—

''(i) the fair market value of the real property with respect to which the qualified perpetual habitat protection agreement is made, determined on the day before such agreement is entered into, over

''(ii) the fair market value of such property, determined on the day after such agreement is entered into,

''(B) in the case of an eligible taxpayer who has entered into a qualified 30-year habitat protection agreement during such taxable year, 75 percent of such excess, and

''(C) in the case of any other eligible taxpayer, zero.

''(2) REDUCTION FOR AMOUNT RECEIVED FOR EASEMENT.—The credit allowed under subsection (a)(1) shall be reduced by any amount received by the taxpayer in connection with the easement.

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a)(1) for any taxable year shall not exceed the sum of—

''(A) the taxpayer's regular tax liability for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, and 30C, and

''(B) the tax imposed by section 55(a) for the taxable year.

''(4) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a)(1) for any taxable year exceeds the limitation imposed by paragraph (3) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a)(1) for such succeeding taxable year.

''(5) QUALIFIED APPRAISALS REQUIRED.—No amount shall be taken into account under this subsection unless the eligible taxpayer includes with the taxpayer's return for the taxable year a qualified appraisal (within the meaning of section 170(f)(11)(E)) of the real property.

''(e) HABITAT RESTORATION CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a)(2), the habitat restoration credit for any taxable year shall be an amount equal to—

''(A) in the case of a qualified perpetual habitat protection agreement, 100 percent of the costs paid or incurred by an eligible taxpayer during such taxable year pursuant to such agreement,

''(B) in the case of a qualified 30-year habitat protection agreement, 75 percent of the costs paid or incurred by an eligible taxpayer during such taxable year pursuant to such agreement, and

''(C) in the case of a qualified habitat protection agreement, 50 percent of the costs paid or incurred by an eligible taxpayer during such taxable year pursuant to such agreement.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a)(2) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax liability for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, and 30C, over

''(B) the tentative minimum tax for the taxable year.

''(3) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a)(2) for any taxable year exceeds the limitation imposed by paragraph (2) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a)(2) for such succeeding taxable year.

''(4) SPECIAL RULES.—

''(A) CERTAIN COSTS NOT INCLUDED.—No credit shall be allowed under subsection (a)(2) for any cost which is paid or incurred by a taxpayer to comply with any requirement of a Federal, State, or local government.

''(B) SUBSIDIZED FINANCING.—For purposes of paragraph (1), the amount of costs paid or incurred by an eligible taxpayer pursuant to any agreement described in subsection (c) shall be reduced by the amount of any financing provided under any Federal or State program a principal purpose of which is to subsidize financing for the conservation of the habitat of a qualified species.

''(f) ENDANGERED SPECIES RECOVERY CREDIT LIMITATION.—

''(1) IN GENERAL.—There is an endangered species recovery credit limitation for each calendar year. Such limitation is —

''(A) for 2007, 2008, 2009, 2010, and 2011—

''(i) $300,000,000 with respect to qualified perpetual habitat protection agreements,

''(ii) $60,000,000 with respect to qualified 30-year habitat protection agreements, and

''(iii) $40,000,000 with respect to qualified habitat protection agreements, and

''(B) except as provided in paragraph (3), zero thereafter.

''(2) ALLOCATION OF LIMITATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of Commerce, shall allocate the endangered species recovery credit limitation to eligible taxpayers.

''(B) CONSIDERATIONS.—In making allocations to eligible taxpayers under this section, priority shall be given to taxpayers with agreements—

''(i) relating to habitats that will significantly increase the likelihood of recovering and delisting a species as an endangered species or a threatened species (as defined under section 2 of the Endangered Species Act of 1973),

''(ii) that are cost-effective and maximize the benefits to a qualified species per dollar expended,

''(iii) relating to habitats of species which have a federally approved recovery plan pursuant to section 4 of the Endangered Species Act of 1973,

''(iv) relating to habitats with the potential to contribute significantly to the improvement of the status of a qualified species,

''(v) relating to habitats with the potential to contribute significantly to the eradication or control of invasive species that are imperiling a qualified species,

''(vi) with habitat management plans that will manage multiple qualified species,

''(vii) with habitat management plans that will create adjacent or proximate habitat for the recovery of a qualified species,

''(viii) relating to habitats for qualified species with an urgent need for protection,

''(ix) with habitat management plans that assist in preventing the listing of a species as endangered or threatened under the Endangered Species Act of 1973 or a similar State law,

''(x) with habitat management plans that may resolve conflicts between the protection of qualified species and otherwise lawful human activities, and

''(xi) with habitat management plans that may resolve conflicts between the protection of a qualified species and military training or other military operations.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year the limitation under paragraph (1) (after the application of this paragraph) exceeds the amount allocated to all eligible taxpayers for such calendar year, the limitation amount for the following calendar year shall be increased by the amount of such excess.

''(g) OTHER DEFINITIONS AND SPECIAL RULES.—

''(1) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' has the meaning given to the term 'Secretary' under section 3(15) of the Endangered Species Act of 1973.

''(2) HABITAT MANAGEMENT PLAN.—The term 'habitat management plan' means, with respect to any habitat, a plan which—

''(A) identifies one or more qualified species to which the plan applies,

''(B) describes the management practices to be undertaken by the taxpayer,

''(C) describes the technical assistance to be provided to the taxpayer and identifies the entity that will provide such assistance,

''(D) provides a schedule of deadlines for undertaking such management practices, and

''(E) requires monitoring of the management practices and the status of the qualified species.

''(3) QUALIFIED SPECIES.—The term 'qualified species' means—

''(A) any species listed as an endangered species or threatened species under the Endangered Species Act of 1973, or

''(B) any species for which a finding has been made under section 4(b)(3) of Endangered Species Act of 1973 that listing under such Act may be warranted.

''(4) TAKING.—The term 'taking' has the meaning given to such term under the Endangered Species Act of 1973.

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a)(1) shall be reduced by the amount of the credit so allowed.

''(6) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount with respect to which a credit is allowed under subsection (a).

''(7) CERTIFICATION.—No credit shall be allowed under subsection (a) unless the appropriate Secretary certifies that any agreement described in subsection (c) which is entered into by an eligible taxpayer will contribute to the recovery of a qualified species.

''(8) REQUEST FOR AUTHORIZATION OF INCIDENTAL TAKINGS.—The Secretary shall request the appropriate Secretary to consider whether to authorize under the Endangered Species Act of 1973 takings by an eligible taxpayer of a qualified species to which an agreement described in subsection (c) relates if the takings are incidental to—

''(A) the restoration, enhancement, or management of the habitat pursuant to the habitat management plan under the agreement, or

''(B) the use of the property to which the agreement pertains at any time after the expiration of the easement or the specified period described in subsection (c)(4)(A), but only if such use will leave the qualified species at least as well off on the property as it was before the agreement was made.

''(9) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit under any credit allowable under subsection (a) if the Secretary, in consultation with the appropriate Secretary, determines that the eligible taxpayer has failed to carry out the duties of the taxpayer under the terms of a qualified perpetual habitat protection agreement, a qualified 30-year habitat protection agreement, or a qualified habitat protection agreement.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by inserting after paragraph (37) the following new paragraph:

''(38) to the extent provided in section 30D(g)(5).''.

(2) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Endangered species recovery credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 3. DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.

(a) DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (1) of section 175(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended by inserting after the first sentence the following new sentence: ''Such term shall include expenditures paid or incurred for the purpose of achieving specific actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 175 of such Code is amended by inserting '', or for endangered species recovery'' after ''prevention of erosion of land used in farming'' each place it appears in subsections (a) and (c).

(B) The heading of section 175 of such Code is amended by inserting ''**; endangered species recovery expenditures**'' before the period.

(C) The item relating to section 175 in the table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting ''; endangered species recovery expenditures'' before the period.

(b) LIMITATIONS.—Paragraph (3) of section 175(c) of the Internal Revenue Code of 1986 (relating to additional limitations) is amended—

(1) in the heading, by inserting ''OR ENDANGERED SPECIES RECOVERY PLAN'' after ''CONSERVATION PLAN'', and

(2) in subparagraph (A)(i), by inserting ''or the recovery plan approved pursuant to the Endangered Species Act of 1973'' after ''Department of Agriculture''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 4. EXCLUSION FOR COST SHARING PAYMENTS UNDER THE PARTNERS FOR FISH AND WILDLIFE ACT AND CERTAIN OTHER PROGRAMS AUTHORIZED BY THE FISH AND WILDLIFE ACT OF 1956.

(a) IN GENERAL.—Subsection (a) of section 126 of the Internal Revenue Code of 1986 (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (12) and by inserting after paragraph (9) the following new paragraphs:

''(10) The Partners for Fish and Wildlife Program authorized by the Partners for Fish and Wildlife Act.

''(11) The Landowner Incentive Program, the State Wildlife Grants Program, and the Private Stewardship Grants Program authorized by the Fish and Wildlife Act of 1956.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after the date of the enactment of this Act.

By Mr. McCAIN:

S. 4089. A bill to modernize and expand the reporting requirements relating to child pornography, to expand cooperation in combating child pornography, to require convicted sex offenders to register online identifiers, and for other purposes; to the Committee on the Judiciary.

Mr. MCCAIN. Mr. President, today I am introducing the Stop the Online Exploitation of Our Children Act of 2006. This legislation would reduce the sexual exploitation of our children, and punish those who cause them physical and emotional harm through sex crimes.

Twenty-two years ago, President Ronald Reagan inaugurated the opening of the National Center for Missing and Exploited Children, known as NCMEC. At a White House ceremony, he called on the center to ''wake up America and attack the crisis of child victimization.'' Today, thanks to the efforts of NCMEC and many others in the public and private sectors, America is more conscious of the dangers of child exploitation, but our children still face significant threats from those who see their innocence as an opportunity to do harm. The continuing victimization of our children is readily and all too painfully apparent in the resurgence of child pornography in our world.

In recent years, technology has contributed to the greater distribution and availability, and, some believe, desire for child pornography. I say child pornography, but that label does not describe accurately what is at issue. As emphasized by a recent Department of Justice report, ''child pornography'' does not come close to describing these images, which are nothing short of recorded images of child sexual abuse. These images are, quite literally, digital evidence of violent sexual crimes perpetrated against the most vulnerable among us.

Experts are also finding that the images of child sexual exploitation produced and distributed today involve younger and younger children. As emphasized by NCMEC, 83 percent of offenders surveyed in a recent study were caught with images of children younger than 12 years old. Thirty-nine percent had images of children younger than 6. Almost 20 percent had images of children younger than 3. These are not normal criminals, and I cannot fathom the extent of the physical and emotional harm they cause their victims.

The violence of the images continues to increase as well. Dr. Sharon Cooper, a nationally recognized expert on this subject, stated before a September Senate Commerce Committee hearing that the images often depict ''sadistic gross sexual assault and sodomy.'' This view was underscored by Mike Brown, the sheriff of Bedford County, VA, and the director of the Blue Ridge Thunder Internet Crimes Against Children Task Force, who also testified to his direct experience with increasingly violent and disturbing images of child sexual exploitation.

The Federal Government has in place a system for online companies such as Internet service providers to report these images to NCMEC. The center is directed by law to relay that information to Federal and State law enforcement agencies. This reporting system has been successful, but it is in need of several vital improvements.

The bill would enhance the current reporting system by expanding the range of companies obligated to report child pornography to NCMEC; stating specifically what information must be reported to the center; moving the reporting obligations into the Federal

criminal code; imposing higher penalties on companies that do not report child pornography to NCMEC in the manner required by law; and providing greater legal certainty around the child pornography reporting requirement.

As suggested by NCMEC, the reporting of child pornography should be more widespread. To that end, the bill would expand and clarify the types of online companies that would be obligated to report child pornography to the center. Today, Federal law requires electronic communication service providers and providers of remote computing services to report child pornography they discover to NCMEC through the center's CyberTipline. However, what types of companies fall into each category is sometimes unclear. To better define and expand the types of online companies obligated to report child pornography, the legislation would require a broad range of online service providers—including Web hosting companies, domain name registrars, and social networking sites—to report child pornography to NCMEC.

Another weakness in the current reporting system is that the law does not say exactly what information should be reported to NCMEC. This failure to set forth specific reporting requirements makes the current statute both difficult to comply with and tough to enforce, and this omission may have led to less effective prosecution of child pornographers. According to testimony submitted by the center to the Senate Commerce Committee, ''because there are no guidelines for the contents of these reports, some [companies] do not send customer information that allows NCMEC to identify a law enforcement jurisdiction. So potentially valuable investigative leads are left to sit in the CyberTipline database with no action taken.'' This is unacceptable.

The bill would cure this problem by requiring that reporting companies convey to the center a defined set of information, which is in large part the information that is provided to NCMEC today by the Nation's leading Internet service providers. Among other things, the bill would require online service providers to report specific information about the individual involved in producing, distributing, or receiving child pornography such as that individual's e-mail address. In addition, it would require reporting companies to NCMEC geographic location of the involved individual such as the individual's physical address and the IP address from which the individual connected to the Internet.

To ensure that law enforcement officials have better odds of prosecuting involved individuals, the bill would also require online service providers to preserve all data that they report to NCMEC for at least 180 days, and to not knowingly destroy any other information that they possess that relates to a child pornography incident reported to NCMEC.

The legislation would help ensure greater compliance with the child pornography reporting requirements under Federal law by increasing threefold the penalties for knowing failure to report child pornography to NCMEC. It would also move the reporting requirement from title 42, which relates to the public's health and welfare, to title 18, our Federal Criminal Code. This is to underscore that a breach of the reporting obligations is a violation of criminal law. In addition, the act would eliminate the legal liability of online service providers for actions taken to comply with the child pornography reporting requirements.

The bottom line is that this legislation should result in more thorough reporting of child pornography to NCMEC. I expect that more and better information provided to the center will lead to a greater number of prosecutions and enhanced protection of our children. As stated by NCMEC, with improvements to the reporting system there would be more reports that are actionable by law enforcement, which will lead to more prosecutions and convictions and, more importantly, to the rescue of more children.

In addition to the provisions relating to child pornography, the bill also would ensure that sex offenders will register information relevant to their online activities on sex offender registries. Specifically, it would require sex offenders to register their e-mail addresses, as well as their instant messaging and chat room handles and any other online identifiers they use. If a sex offender failed to do so, he could be prosecuted, convicted, and thrown into jail for up to 10 years. The bill would also make the use of the Internet in the commission of a crime of child exploitation an aggravating factor that would add 10 years to the offender's sentence.

To help address the international nature of child pornography, the bill would permit NCMEC to share reports with foreign law enforcement agencies, subject to approval by the Department of Justice. In addition, the act would state the sense of Congress that the executive branch should make child pornography a priority when engaging in negotiations or talks with foreign countries.

Finally, the act would authorize $20.3 million for our Nation's Internet Crimes Against Children Task Forces. This increase of $5 million above that currently requested by the Administration is recommended by NCMEC, Sheriff Brown, and others who believe that the additional amount would significantly improve the efforts of these teams of Federal, State, and local law enforcement officials dedicated to identifying and prosecuting those who use the Internet to prey upon our Nation's children.

Mr. President, protecting our children is a top priority for Members of Congress, regardless of party affiliation. This legislation would help us achieve that goal. I look forward to working with my colleagues to debate and move this bill through the legislative process during the next Congress.

By Ms. SNOWE (for herself, Mr. KERRY, Ms. LANDRIEU, and Mr. VITTER):

S. 4097. A bill to improve the disaster loan program of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today with Senators KERRY, LANDRIEU and VITTER to introduce The Small Business Disaster Response and Loan Improvements Act of 2006, a bill that would provide a comprehensive; package of reforms to improve the Small Business Administration's, SBA, disaster loan program.

As you know, the entire gulf coast of the United States was ravaged in 2005 by Hurricanes Katrina and Rita. These natural disasters, unprecedented in scope and economic impact, presented a prime opportunity for the SBA to showcase its programs and resources for small businesses. Unfortunately, SBA's response was subpar at best, leaving some disaster victims waiting three months or more for disaster loans to be processed.

As chair of the Senate Committee on Small Business and Entrepreneurship, I remain committed to doing everything in my power to provide small businesses and homeowners with the tools they need to recover from disasters. The SBA is and must be at the forefront of disaster relief efforts. We must ensure that victims of future disasters have access to the resources they need to restore their lives, their businesses, and their dreams.

Many of the provisions in this bid have already passed unanimously through the Small Business Committee this year as part of the Small Business Reauthorization and Improvements Act of 2006 S. 3778, bipartisan legislation I authored that features sweeping reforms to help the SBA lead with the same dedication to excellence found in the entrepreneurs it serves. The committee unanimously approved this legislation and reported it to the full Senate, where it awaits consideration.

This bill before the Senate today includes essential provisions that would better assist victims applying for SBA disaster loans. Among other items, this legislation would increase the maximum size of an SBA disaster loan from $1.5 million per loan to $5 million per loan and would make it possible for non-profit institutions to be eligible for disaster loans.

Recognizing the increased demand disasters place on all small business lending programs, the legislation establishes a private disaster loan PDL program that allows for PDLs to be made to disaster victims by private banks, which would have to apply to the SBA for eligibility. A business would be eligible for a PDL if the county in which the business is located was

declared a disaster area anytime in the last 24 months. The business would not have to show a nexus between its need for a loan, and the disaster that occurred. It would be enough to be located in that county. The SBA would provide an 85 percent guarantee for the loans.

In addition, our legislation would provide authorization for the SBA to enter into agreements with qualified private contractors to process disaster loans. It also would require the SBA to provide Congress with a report on how the disaster loan application process can be improved, including methods to expedite loan processing and verification for sources vital to rebuilding efforts.

This legislation would also require the SBA to promulgate rules within 6 months that would create a new ''expedited disaster assistance business loan program.'' These short-term loans would have low interest rates similar to regular disaster loans. The program is intended to respond to major disasters, but at the discretion of the SBA Administrator, it can be implemented in the event of any disaster.

I firmly believe the product before us is the best package to aid families, businesses, and communities through challenging times following disasters. We must not forget their pain, their determination, and their resolute refusal to walk away from the communities and small businesses they cherish.

When a disaster strikes, the spirit, determination, and will of America's small businesses help to create the firm economic foundation, propelling our nation's economic growth forward. Therefore, we in turn must create an atmosphere favorable for small businesses and provide this assistance package to the SBA. We must allow our Nation's small businesses to do what they do best—create jobs.

I urge my colleagues to support this bill. Too much is at stake for small businesses, and the economy as a whole, to allow this critical legislation to languish. Clearly, if we strive for anything less, we fail to support the backbone of our economy, our hope for new innovation, and the entrepreneurs reach for the American dream.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 4097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Disaster Response and Loan Improvements Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term ''small business concern owned and controlled by socially and economically disadvantaged individuals'' has the same meaning as in section 8 of the Small Business Act (15 U.S.C. 637).

TITLE I—PRIVATE DISASTER LOANS

SEC. 101. PRIVATE DISASTER LOANS.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) PRIVATE DISASTER LOANS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'disaster area' means a county, parish, or similar unit of general local government in which a disaster was declared under subsection (b);

''(B) the term 'eligible small business concern' means a business concern that is—

''(i) a small business concern, as defined in this Act; or

''(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958; and

''(C) the term 'qualified private lender' means any privately-owned bank or other lending institution that the Administrator determines meets the criteria established under paragraph (9).

''(2) AUTHORIZATION.—The Administrator may guarantee timely payment of principal and interest, as scheduled on any loan issued by a qualified private lender to an eligible small business concern located in a disaster area.

''(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (a) or (b).

''(4) ONLINE APPLICATIONS.—

''(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

''(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

''(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

''(5) MAXIMUM AMOUNTS.—

''(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

''(B) LOAN AMOUNTS.—The maximum amount of a loan guaranteed under this subsection shall be $3,000,000.

''(6) LOAN TERM.—The longest term of a loan for a loan guaranteed under this subsection shall be—

''(A) 15 years for any loan that is issued without collateral; and

''(B) 25 years for any loan that is issued with collateral.

''(7) FEES.—

''(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

''(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender and the Administrator.

''(8) DOCUMENTATION.—A qualified private lender may use its own loan documentation for a loan guaranteed by the Administrator, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan offered under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (9).

''(9) IMPLEMENTATION REGULATIONS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2006, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

''(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2006, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(10) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration under subsection (b).

''(B) AUTHORITY TO REDUCE INTEREST RATES.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator, to the extent available, to reduce the applicable rate of interest for a loan guaranteed under this subsection by not more than 3 percentage points.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared under section 7(b)(2) of the Small Business Act (631 U.S.C. 636(b)(2)) before, on, or after the date of enactment of this Act.

SEC. 102. TECHNICAL AND CONFORMING AMENDMENTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 4(c)—

(A) in paragraph (1), by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and

(B) in paragraph (2)—

(i) by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and

(ii) by striking ''7(e),''; and

(2) in section 7(b), in the undesignated matter following paragraph (3)—

(A) by striking ''That the provisions of paragraph (1) of subsection (c)'' and inserting ''That the provisions of paragraph (1) of subsection (d)''; and

(B) by striking ''Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c),'' and inserting ''Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)''.

TITLE II—DISASTER RELIEF AND RECONSTRUCTION

SEC. 201. DEFINITION OF DISASTER AREA.

In this title, the term ''disaster area'' means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration.

SEC. 202. DISASTER LOANS TO NONPROFITS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3) the following:

''(4) LOANS TO NONPROFITS.—In addition to any other loan authorized by this subsection, the Administrator may make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to a nonprofit organization located or operating in an area affected by a natural or other disaster, as determined under paragraph (1) or (2), or providing services to persons who have evacuated from any such area.''.

SEC. 203. DISASTER LOAN AMOUNTS.

(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (4), as added by this title, the following:

''(5) INCREASED LOAN CAPS.—

''(A) AGGREGATE LOAN AMOUNTS.—Except as provided in clause (ii), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed $5,000,000.

''(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, waive the aggregate loan amount established under clause (i).''.

(b) DISASTER MITIGATION.—

(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting ''of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)'' after ''20 per centum''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act.

(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in the matter preceding paragraph (1), by striking ''the, Administration'' and inserting ''the Administration'';

(2) in paragraph (2)(A), by striking ''Disaster Relief and Emergency Assistance Act'' and inserting ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)''; and

(3) in the undesignated matter at the end—

(A) by striking '', (2), and (4)'' and inserting ''and (2)''; and

(B) by striking '', (2), or (4)'' and inserting ''(2)''.

SEC. 204. SMALL BUSINESS DEVELOPMENT CENTER PORTABILITY GRANTS.

Section 21(a)(4)(C)(viii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(viii)) is amended—

(1) in the first sentence, by striking ''as a result of a business or government facility down sizing or closing, which has resulted in the loss of jobs or small business instability'' and inserting ''due to events that have resulted or will result in, business or government facility downsizing or closing''; and

(2) by adding at the end ''At the discretion of the Administrator, the Administrator may make an award greater than $100,000 to a recipient to accommodate extraordinary occurrences having a catastrophic impact on the small business concerns in a community.''.

SEC. 205. ASSISTANCE TO OUT-OF-STATE BUSINESSES.

Section 21(b)(3) of the Small Business Act (15 U.S.C. 648(b)(3)) is amended—

(1) by striking ''At the discretion'' and inserting the following: ''SMALL BUSINESS DEVELOPMENT CENTERS.—

''(A) IN GENERAL.—At the discretion''; and

(2) by adding at the end the following:

''(B) DURING DISASTERS.—

''(i) IN GENERAL.—At the discretion of the Administrator, the Administrator may authorize a small business development center to provide such assistance to small business concerns located outside of the State, without regard to geographic proximity, if the small business concerns are located in a disaster area declared under section 7(b)(2)(A).

''(ii) CONTINUITY OF SERVICES.—A small business development center that provides counselors to an area described in clause (i) shall, to the maximum extent practicable, ensure continuity of services in any State in which such small business development center otherwise provides services.

''(iii) ACCESS TO DISASTER RECOVERY FACILITIES.—For purposes of providing disaster recovery assistance under this subparagraph, the Administrator shall, to the maximum extent practicable, permit small business development center personnel to use any site or facility designated by the Administrator for use to provide disaster recovery assistance.''.

SEC. 206. OUTREACH PROGRAMS.

(a) IN GENERAL.—Not later than 30 days after the date of the declaration of a disaster area, the Administrator may establish a contracting outreach and technical assistance program for small business concerns which have had a primary place of business in, or other significant presence in, such disaster area.

(b) ADMINISTRATOR ACTION.—The Administrator may fulfill the requirement of subsection (a) by acting through—

(1) the Administration;

(2) the Federal agency small business officials designated under section 15(k)(1) of the Small Business Act (15 U.S.C. 644(k)(1)); or

(3) any Federal, State, or local government entity, higher education institution, procurement technical assistance center, or private nonprofit organization that the Administrator may determine appropriate, upon conclusion of a memorandum of understanding or assistance agreement, as appropriate, with the Administrator.

SEC. 207. SMALL BUSINESS BONDING THRESHOLD.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed $5,000,000.

(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed $10,000,000.

SEC. 208. CONTRACTING PRIORITY FOR LOCAL SMALL BUSINESSES.

Section 15(d) of the Small Business Act (15 U.S.C. 644(d)) is amended—

(1) by striking ''(d) For purposes'' and inserting the following:

''(d) CONTRACTING PRIORITIES.—

''(1) IN GENERAL.—For purposes''; and

(2) by adding at the end the following:

''(2) DISASTER CONTRACTING PRIORITY IN GENERAL.—The Administrator shall designate any disaster area as an area of concentrated unemployment or underemployment, or a labor surplus area for purposes of paragraph (1).

''(3) LOCAL SMALL BUSINESSES.—

''(A) IN GENERAL.—The head of each executive agency shall give priority in the awarding of contracts and the placement of subcontracts for disaster relief to local small business concerns by using, as appropriate—

''(i) preferential factors in evaluations of contract bids and proposals;

''(ii) competitions restricted to local small business concerns, where there is a reasonable expectation of receiving competitive, reasonably priced bids or proposals from not fewer than 2 local small business concerns;

''(iii) requirements of preference for local small business concerns in subcontracting plans; and

''(iv) assessments of liquidated damages and other contractual penalties, including contract termination.

''(B) OTHER DISASTER ASSISTANCE.—Priority shall be given to local small business concerns in the awarding of contracts and the placement of subcontracts for disaster relief in any Federal procurement and any procurement by a State or local government made with Federal disaster assistance funds.

''(4) DEFINITIONS.—In this subsection—

''(A) the term 'declared disaster' means a disaster, as designated by the Administrator;

''(B) the term 'disaster area' means any State or area affected by a declared disaster, as determined by the Administrator;

''(C) the term 'executive agency' has the same meaning as in section 105 of title 5, United States Code; and

''(D) the term 'local small business concern' means a small business concern that—

''(i) on the date immediately preceding the date on which a declared disaster occurred—

''(I) had a principal office in the disaster area for such declared disaster; and

''(II) employed a majority of the workforce of such small business concern in the disaster area for such declared disaster; and

''(ii) is capable of performing a substantial proportion of any contract or subcontract

for disaster relief within the disaster area for such declared disaster, as determined by the Administrator.''.

SEC. 209. TERMINATION OF PROGRAM.

Section 711(c) of the Small Business Competitive Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by inserting after ''January 1, 1989'' the following: '', and shall terminate on the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2006''.

SEC. 210. INCREASING COLLATERAL REQUIREMENTS.

Section 7(d)(6) of the Small Business Act (15 U.S.C. 636), as so designated by section 101, is amended by striking ''$10,000 or less'' and inserting ''$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a catastrophic national disaster declared under subsection (b)(6))''.

TITLE III—DISASTER RESPONSE

SEC. 301. DEFINITIONS.

In this title—

(1) the term ''catastrophic national disaster'' has the meaning given the term in section 7(b)(6) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act;

(2) the term ''declared disaster'' means a major disaster or a catastrophic national disaster;

(3) the term ''disaster loan program of the Administration'' means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(4) the term ''disaster update period'' means the period beginning on the date on which the President declares a major disaster or a catastrophic national disaster and ending on the date on which such declaration terminates;

(5) the term ''major disaster'' has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); and

(6) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

SEC. 302. BUSINESS EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term ''immediate disaster assistance'' means assistance provided during the period beginning on the date on which a disaster declaration is made and ending on the date that an impacted small business concern is able to secure funding through insurance claims, Federal assistance programs, or other sources; and

(2) the term ''program'' means the expedited disaster assistance business loan program established under subsection (b); and

(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program to provide small business concerns with immediate disaster assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—

(1) appropriate personnel of the Administration (including District Office personnel of the Administration);

(2) appropriate technical assistance providers (including small business development centers);

(3) appropriate lenders and credit unions;

(4) the Committee on Small Business and Entrepreneurship of the Senate; and

(5) the Committee on Small Business of the House of Representatives.

(d) RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall promulgate rules establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form.

(2) CONTENTS.—The rules promulgated under paragraph (1) shall—

(A) identify whether appropriate uses of funds under the program may include—

(i) paying employees;

(ii) paying bills and other financial obligations;

(iii) making repairs;

(iv) purchasing inventory;

(v) restarting or operating a small business concern in the community in which it was conducting operations prior to the declared disaster, or to a neighboring area, county, or parish in the disaster area; or

(vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and

(B) set the terms and conditions of any loan made under the program, subject to paragraph (3).

(3) TERMS AND CONDITIONS.—A loan made by the Administration under this section—

(A) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;

(B) shall have an interest rate not to exceed 1 percentage point above the prime rate of interest that a private lender may charge;

(C) shall have no prepayment penalty;

(D) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act; and

(E) shall be subject to such additional terms as the Administrator determines necessary or appropriate.

(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 303. CATASTROPHIC NATIONAL DISASTERS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:

''(6) CATASTROPHIC NATIONAL DISASTERS.—

''(A) DEFINITION.—In this paragraph the term 'catastrophic national disaster' means a disaster, natural or other, that the President determines has caused significant adverse economic conditions outside of the geographic reach of the disaster.

''(B) AUTHORIZATION.—The Administrator may make such loans under this paragraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to small business concerns located anywhere in the United States that are economically adversely impacted as a result of a catastrophic national disaster.

''(C) LOAN TERMS.—A loan under this paragraph shall be made on the same terms as a loan under paragraph (2).''.

SEC. 304. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (6), as added by this Act, the following:

''(7) COORDINATION WITH FEMA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster (including a catastrophic national disaster) declared under this subsection or major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Administrator, in consultation with the Director of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) begin on the same date and end on the same date.

''(B) DEADLINE EXTENSIONS.—Notwithstanding any other provision of law—

''(i) not later than 10 days before the closing date of an application period for disaster relief under this Act for any disaster (including a catastrophic national disaster) declared under this subsection, the Administrator, in consultation with the Director of the Federal Emergency Management Agency, shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives as to whether the Administrator intends to extend such application period; and

''(ii) not later than 10 days before the closing date of an application period for disaster relief under the Robert T. Stafford Disaster Relief and Emergency Assistance Act for any major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) for which the President has declared a catastrophic national disaster under paragraph (6), the Director of the Federal Emergency Management Agency, in consultation with the Administrator, shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives as to whether the Director intends to extend such application period.

''(8) PUBLIC AWARENESS OF DISASTERS.—If a disaster (including a catastrophic national disaster) is declared under this subsection, the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

''(A) the date of such declaration;

''(B) cities and towns within the area of such declaration;

''(C) loan application deadlines related to such disaster;

''(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

''(E) links to relevant Federal and State disaster assistance websites;

''(F) information on eligibility criteria for Federal Emergency Management Agency disaster assistance applications, as well as for Administration loan programs, including where such applications can be found; and

''(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.''.

(b) COORDINATION OF AGENCIES AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator and the Director of the Federal Emergency

Management Agency shall enter into a memorandum of understanding that ensures, to the maximum extent practicable, adequate lodging and transportation for employees of the Administration, contract employees, and volunteers during a major disaster, if such staff are needed to assist businesses, homeowners, or renters in recovery.

(c) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—

(1) encourages a proactive approach to the disaster relief efforts of the Administration;

(2) distinguishes between disaster services provided by the Administration and disaster services provided by the Federal Emergency Management Agency, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;

(3) describes the different disaster loan programs of the Administration, including how they are made available and what eligibility requirements exist for each loan program;

(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and

(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.

SEC. 305. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.

(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the Administration for administering the disaster loan program.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administration shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).

SEC. 306. PROCESSING DISASTER LOANS.

(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:

''(9) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

''(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) or a catastrophic national disaster declared under paragraph (6), under which the Administrator shall pay the contractor a fee for each loan processed.

''(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) or a catastrophic national disaster declared under paragraph (6), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.''.

(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.

(c) REPORT ON LOAN APPROVAL RATE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) recommendations, if any, regarding—

(i) staffing levels during a major disaster;

(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;

(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);

(v) legislative changes, if any, needed to implement findings from the Administration's Accelerated Disaster Response Initiative; and

(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and

(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).

SEC. 307. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.

(a) IN GENERAL.—Not later than March 15, 2007, the Administrator shall—

(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the ''disaster response plan'') to apply to major disasters and catastrophic national disasters, consistent with this Act and the amendments made by this Act; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing the amendments to the disaster response plan.

(b) CONTENTS.—The amended report required under subsection (a)(2) shall include—

(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted on July 14, 2006;

(2) a description of how the Administrator plans to utilize and integrate District Office personnel of the Administration in the response to a major disaster, including information on the utilization of personnel for loan processing and loan disbursement;

(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;

(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;

(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;

(6) recommendations, if any, on how the Administrator can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;

(7) any surge plan for the system in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mailroom, customer service or call center operations, and a continuity of operations plan);

(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;

(9) the in-service and preservice training procedures for disaster response staff of the Administration;

(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;

(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(12) a plan for how the Administrator, in cooperation with the Director of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(c) EXERCISES.—Not later than May 31, 2007, the Administrator shall develop and execute simulation exercises to demonstrate the effectiveness of the amended disaster response plan required under this section.

SEC. 308. CONGRESSIONAL OVERSIGHT.

(a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—

(1) DEFINITION.—In this subsection the term ''applicable period'' means the period beginning on the date on which the President declares a major disaster and ending on the date that is 30 days after the later of the closing date for applications for physical disaster loans for such disaster and the closing date for applications for economic injury disaster loans for such disaster.

(2) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall provide to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for such disaster during the preceding month.

(3) CONTENTS.—Each report under paragraph (2) shall include—

(A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased, noting the source of any additional funding;

(E) an estimate of how long the available funding for such loans will last, based on the spending rate;

(F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (2);

(G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (2);

(H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased, noting the source of any additional funding; and

(I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

(b) DAILY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—

(1) IN GENERAL.—Each day during a disaster update period, excluding Federal holidays and weekends, the Administration shall provide to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster or a catastrophic national disaster, as the case may be.

(2) CONTENTS.—Each report under paragraph (1) shall include—

(A) the number of Administration staff performing loan processing, field inspection, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;

(B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;

(C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;

(D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;

(E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;

(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;

(K) the daily dollar amount of loans dispersed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;

(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully dispersed, including dollar amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.

(c) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for such loan program.

(d) REPORT ON CONTRACTING.—

(1) IN GENERAL.—Not later than 6 months after the date on which the President declares a declared disaster, and every 6 months thereafter until the date that is 18 months after the date on which the declared disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of the declared disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the total number of contracts awarded as a result of the declared disaster;

(B) the total number of contracts awarded to small business concerns as a result of the declared disaster;

(C) the total number of contracts awarded to women and minority-owned businesses as a result of the declared disaster; and

(D) the total number of contracts awarded to local businesses as a result of the declared disaster.

TITLE IV—ENERGY EMERGENCIES

SEC. 401. FINDINGS.

Congress finds that—

(1) a significant number of small business concerns in the United States, nonfarm as well as agricultural producers, use heating oil, natural gas, propane, or kerosene to heat their facilities and for other purposes;

(2) a significant number of small business concerns in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small business concerns dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983 to 1984, 1988 to 1989, 1996 to 1997, 1999 to 2000, 2000 to 2001, and 2004 to 2005; and

(D) can be caused by a host of factors, including international conflicts, global or regional supply difficulties, weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to, and beyond the control of, those who own and operate small business concerns.

SEC. 402. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (9), as added by this Act, the following:

''(10) ENERGY EMERGENCIES.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'base price index' means the moving average of the closing unit price on the New York Mercantile Exchange for heating oil, natural gas, or propane for the 10 days, in each of the most recent 2 preceding years, which correspond to the trading days described in clause (ii);

''(ii) the term 'current price index' means the moving average of the closing unit price on the New York Mercantile Exchange, for the 10 most recent trading days, for contracts to purchase heating oil, natural gas, or propane during the subsequent calendar month, commonly known as the 'front month';

''(iii) the term 'heating fuel' means heating oil, natural gas, propane, or kerosene; and

''(iv) the term 'significant increase' means—

''(I) with respect to the price of heating oil, natural gas, or propane, any time the current price index exceeds the base price index by not less than 40 percent; and

''(II) with respect to the price of kerosene, any increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

''(B) AUTHORIZATION.—The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a significant increase in the price of heating fuel occurring on or after October 1, 2004.

''(C) INTEREST RATE.—Any loan or guarantee extended under this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

''(D) MAXIMUM AMOUNT.—No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $1,500,000, unless such borrower constitutes a major source of employment in its surrounding area, as determined by the Administrator, in which case the Administrator, in the discretion of the Administrator, may waive the $1,500,000 limitation.

''(E) DECLARATIONS.—For purposes of assistance under this paragraph—

''(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

''(ii) if no declaration has been made under clause (i), the Governor of a State in which a significant increase in the price of heating fuel has occurred may certify to the Administration that small business concerns have

suffered economic injury as a result of such increase and are in need of financial assistance which is not otherwise available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

''(F) USE OF FUNDS.—Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, or fuel cells.''.

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting '', significant increase in the price of heating fuel'' after ''civil disorders''; and

(2) by inserting ''other'' before ''economic''.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Administrator under section 404.

SEC. 403. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking ''operations have'' and inserting ''operations (i) have''; and

(B) by inserting before '': *Provided,*'' the following: '', or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after October 1, 2004, as the result of a significant increase in energy costs or input costs from energy sources occurring on or after October 1, 2004, in connection with an energy emergency declared by the President or the Secretary'';

(2) in the third sentence, by inserting before the period at the end the following: ''or by an energy emergency declared by the President or the Secretary''; and

(3) in the fourth sentence—

(A) by inserting ''or energy emergency'' after ''natural disaster'' each place that term appears; and

(B) by inserting ''or declaration'' after ''emergency designation''.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) shall be available to carry out the amendments made by subsection (a) to meet the needs resulting from energy emergencies.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Secretary of Agriculture under section 404.

SEC. 404. GUIDELINES AND RULEMAKING.

(a) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator and the Secretary of Agriculture shall each issue such guidelines as the Administrator or the Secretary, as applicable, determines to be necessary to carry out this title and the amendments made by this title.

(b) RULEMAKING.—Not later than 30 days after the date of enactment of this Act, the Administrator, after consultation with the Secretary of Energy, shall promulgate regulations specifying the method for determining a significant increase in the price of kerosene under section 7(b)(10)(A)(iv)(II) of the Small Business Act, as added by this Act.

SEC. 405. REPORTS.

(a) SMALL BUSINESS ADMINISTRATION.—Not later than 12 months after the date on which the Administrator issues guidelines under section 404, and annually thereafter until the date that is 12 months after the end of the effective period of section 7(b)(10) of the Small Business Act, as added by this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the assistance made available under section 7(b)(10) of the Small Business Act, as added by this Act, including—

(1) the number of small business concerns that applied for a loan under such section and the number of those that received such loans;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that received such loans are located;

(4) the type of heating fuel or energy that caused the significant increase in the cost for the participating small business concerns; and

(5) recommendations for ways to improve the assistance provided under such section 7(b)(10), if any.

(b) DEPARTMENT OF AGRICULTURE.—Not later than 12 months after the date on which the Secretary of Agriculture issues guidelines under section 404, and annually thereafter until the date that is 12 months after the end of the effective period of the amendments made to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) by this title, the Secretary shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Small Business and the Committee on Agriculture of the House of Representatives, a report that—

(1) describes the effectiveness of the assistance made available under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); and

(2) contains recommendations for ways to improve the assistance provided under such section 321(a), if any.

Mr. KERRY. Mr. President, in the 15 months since Hurricane Katrina decimated gulf coast communities, Senators SNOWE, LANDRIEU, VITTER, and I have worked to produce a comprehensive package to reform the SBA's disaster loan program. The SBA's failed response in a time of unmatched need demonstrated to everyone that this program is broken and needs fixing.

Immediately after Hurricane Katrina hit, I introduced an amendment with Senator LANDRIEU to the fiscal year 2006 Commerce, Justice and Science appropriations bill to address the needs of gulf region small business and homeowners. The amendment was adapted with input from Chair SNOWE, and a subsequent bipartisan amendment passed the Senate with a vote of 96 to 0. Although the entire Senate supported the amendment, it was stripped out of the bill conference.

On September 30, 2005, I again worked with Chair SNOWE and Senators LANDRIEU and VITTER to introduce the Small Business Hurricane Relief and Reconstruction Act of 2006, S. 1807. Although this bill presented a bipartisan, comprehensive approach to hurricane relief, it stalled in the face of the Administration's opposition. In June, I introduced the Small Business Disaster Loan Reauthorization and Improvements Act of 2006, S. 3487, which once again attempted to comprehensively address the shortcomings of this program. Finally, in August, and with continued opposition from the administration, the, committee unanimously reported S. 3778, the Small Business Reauthorization and Improvements Act of 2006, which again put forward a bipartisan, comprehensive fix for this program.

Many of the provisions included in the bill we are introducing today were included in one or more of these previous proposals. The bill includes directives for the SBA to create a private disaster loan program, to allow for lenders to issue disaster loans. To ensure that these loans are borrower friendly, we provide authorization for appropriations so that the agency can subsidize the interest rates. In addition, the administrator is authorized to enter into agreements with private contractors in order to expedite loan application processing for direct disaster loans.

The bill also includes language directing SBA to create an expedited disaster assistance loan program to provide businesses with short-term loans so that they may keep their doors open until they receive alternative forms of assistance. The days immediately following a disaster are crucial for business owners—statistics show that once they close their doors, they likely will not open them again. These short-term loans should help prevent those doors from closing.

A Presidential declaration of catastrophic national disaster will allow the administrator to offer economic injury disaster loans to adversely affected business owners beyond the geographic reach of the disaster area.

Nonprofit entities working to provide services to victims should be rewarded and given access to the capital they require to continue their services. To this end, the administrator is authorized to make disaster loans to nonprofit entities, including religious organizations.

Construction and rebuilding contracts being awarded are likely to be larger than the current $2 million threshold currently applied to the SBA Surety Bond Program which helps small construction firms gain access to contracts. This bill increases the guarantee against loss for small business contracts up to $5 million and allows the administrator to increase that level to $10 million, if deemed necessary.

The bill also provides for small business development centers to offer business counseling in disaster areas and to travel beyond traditional geographic

boundaries to provide services during declared disasters. To encourage small business development centers located in disaster areas to keep their doors open, the maximum grant amount is waived.

So that Congress may remain better aware of the status of the administration's disaster loan program, this bill directs the administration to report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regularly on the fiscal status of the disaster loan program as well as the need for supplemental funding. The administration is also directed to report on the number of Federal contracts awarded to small businesses, minority-owned small businesses, women-owned businesses, and local businesses during a disaster declaration.

Finally, gas prices continue to fluctuate, and fuel-dependent small businesses are struggling with the cost of energy. This bill provides relief to small business owners during times of above average energy price increases, authorizing energy disaster loans through the Small Business Administration and the Department of Agriculture to companies that depend on fuel.

Residents of the gulf coast continue to rebuild from last year's hurricane season. By all accounts, Administrator Preston has implemented policies that are helping gulf coast victims get back on their feet. However, the SBA needs the tools offered in this bill in order to comprehensively address the needs of business owners following a large-scale disaster. As the 109th Congress prepares to adjourn, it is unconscionable that we have not yet put in place the reforms needed for this program to function effectively. I urge my colleagues in the final days of this session to support this legislation, so that God forbid another region has to deal with a disaster the size and scope of the 2005 gulf coast hurricanes, the SBA will be fully able to provide the assistance that homeowners and business owners require.

Ms. LANDRIEU. Mr. President, as we all know, there was a tremendous amount of criticism of the Federal Government's response to Hurricanes Katrina and Rita last year. Things are better now and the region is slowly recovering. But having just finished the 2006 Hurricane season, and with the 2007 season a few months away, we must be sure that if we have another disaster, the Federal Government's response will be better this time around. Disaster response agencies have to be better organized, more efficient, and more responsive in order to avoid the problems, the delays, mismanagement, and the seeming incompetence that occurred last year.

Today, I am proud to be an original cosponsor of legislation to improve the disaster response of one agency that had a great deal of problems last year, the Small Business Administration, SBA. This bill, the Small Business Disaster Response and Loan Improvements Act, makes major improvements to the SBA's disaster response and provides them with essential tools to ensure that they are more efficient and better prepared for future disasters—big and small. I should also note that this bill is a result of intensive bipartisan work over the past few months. As such, it is reflective of the priorities from Senators SNOWE and KERRY, respectively chair and ranking member of the Senate Small Business Committee, as well as Senator LANDRIEU. For my part, I have heard loud and clear from our impacted businesses that SBA reforms should be implemented as soon as possible. That is why in September, I sent a letter to the new SBA Administrator Steve Preston, expressing concerns on the lack of progress on SBA Disaster reforms, which were included in S. 3778, the fiscal year 2007 SBA reauthorization bill reported out of the Senate Small Business Committee. In this letter, I requested his cooperation, along with our committee, to pass this important legislation before Congress adjourns at the end of the year. The introduction of this bill today, shows the progress that the committee made since September on this issue. I hope that this spirit of bipartisanship continues well into the 110th Congress and that I can continue to work with my colleagues on the Senate Small Business Committee to reform SBA.

This legislation offers new tools to enhance SBA's disaster assistance programs. In every disaster, the SBA disaster loan program is a lifeline for businesses and homeowners who want to rebuild their lives after a catastrophe. When Katrina hit, our businesses and homeowners had to wait months for loan approvals. I do not know how many businesses we lost because help did not come in time. Because of the scale of this disaster, what these businesses needed was immediate, short-term assistance to hold them over until SBA was ready to process the tens of thousands of loan applications it received.

That is why this legislation provides the SBA Administrator with the ability to set up an expedited disaster assistance business loan program to make short-term, low-interest loans to keep them afloat. These loans will allow businesses to make payroll, begin making repairs, and address other immediate needs while they are awaiting insurance payouts or regular SBA disaster loans. However, I realize that every disaster is different and could range from a disaster on the scale of Hurricane Katrina or 911, to an ice storm or drought. This legislation gives the SBA additional options and flexibility in the kinds of relief they can offer a community. When a tornado destroys 20 businesses in a small town in the Midwest, SBA can get the regular disaster program up and running fairly quickly. You may not need short-term loans in this instance. But if you know that SBA's resources would be overwhelmed by a storm—just as they were initially with Katrina—these expedited business loans would be very helpful.

This legislation also would direct SBA to study ways to expedite disaster loans for those businesses in a disaster area that have a good, solid track record with the SBA or can provide vital recovery efforts. We had many businesses in the gulf coast that had paid off previous SBA loans, were major sources of employment in their communities, but had to wait months for decisions on their SBA disaster loan applications. I do not want to get rid of the SBA's current practice of reviewing applications on a first-come-first-served basis, but there should be some mechanism in place for major disasters to get expedited loans out the door to specific businesses that has a positive record with SBA or those that could serve a vital role in the recovery efforts. Expedited loans would jumpstart impacted economies, get vital capital out to businesses, and retain essential jobs following future disasters.

This bill also makes an important modification to the collateral requirements for disaster loans. The SBA cannot disburse more than $10,000 for an approved loan without showing collateral. This is to limit the loss to the SBA in the event that a loan defaults. However, this disbursement amount has not been increased since 1998, and these days, $10,000 is not enough to get a business up and running. That is why this bill increases this collateral requirement to $14,000 and gives the Administrator the ability to increase that amount, in the event of another large-scale disaster. I believe this is a reasonable and fiscally responsible increase, and at the same time gives the Administrator flexibility for future disasters which will inevitably occur.

As you may know, pushed to get language in the last hurricane supplemental appropriations bill in June 2006 to require SBA to develop a disaster plan and report to Congress on its contents by July 15, 2006. SBA provided this status report in July, and I am pleased that, since then, SBA has been working on a comprehensive disaster response plan. That said, I believe that with the 2007 Atlantic hurricane season fast approaching, and other disasters possible before then, the SBA should be looking at additional ways to improve upon this plan. This legislation requires SBA to report to Congress, by March 15, 2007, on the current status of its response plan and to provide us with a snapshot of where they were with Katrina and where they are now. The report also requests SBA feedback on suggested improvements. These improvements include better incorporating State disaster assistance efforts into SBA's response, as well as better coordination with Federal response agencies like FEMA.

The Small Business Disaster Response and Loan Improvements Act will provide essential tools to make the SBA more proactive, flexible, and most important, more efficient during future disasters. Again, I look forward to working with both Senator SNOWE and Senator KERRY during the 110th Congress to ensure that the SBA has everything it needs to meet these goals.

I thank the Chair and ask that my entire statement appear in the RECORD. I also ask unanimous consent that a copy of my September 27, 2006, letter to SBA be printed in the RECORD at the conclusion of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 27, 2006.

Hon. STEVEN C. PRESTON,
Administrator, U.S. Small Business Administration,
Washington, DC.

DEAR ADMINISTRATOR PRESTON: Let me take this opportunity to again congratulate you on your confirmation as Administrator of the U.S. Small Business Administration (SBA). Your management experience and passion to serve will prove extremely helpful to you in this challenging position.

I write you today because, as member of the Senate Committee on Small Business and Entrepreneurship, as well as senator from a state hit hard by both Hurricanes Katrina and Rita, I believe it is my duty to ensure that we implement substantive changes to SBA's Disaster Assistance Program during this session of Congress.

The SBA's response to Katrina and Rita was too slow and lacking in urgency—threatening the very survival of our affected businesses. A year has passed since Hurricanes Katrina and Rita, yet while Congress is currently acting on extensive reforms for the Federal Emergency Management Agency (FEMA), there has been only incremental changes to SBA's Disaster Assistance Program. That is why I am pleased to learn that you have recently created the Accelerated Disaster Response Initiative to identify and help implement process improvements to enable the SBA to respond more quickly in assisting small businesses and homeowners in need of assistance after a disaster. I applaud these efforts and your leadership on this issue. But much more must be done to address the systemic problems that led to delays and inaction post-Katrina and Rita.

For our part, the Senate is also attempting to address the multiple problems that hampered SBA's ability to assist impacted Gulf Coast small businesses and homeowners. Under the leadership of the Chair and Ranking Member of the Senate Committee on Small Business and Entrepreneurship, Senators SNOWE and KERRY, the committee voted unanimously to approve S. 3778, the ''Small Business Reauthorization and Improvements Act of 2006'' and sent it to the full Senate for consideration. A copy of the bill is attached for your convenience. This bipartisisan legislation re-authorizes SBA programs, and also of great importance to me and my constitutents, makes essential reforms to SBA's Disaster Assistance Program. However, since S. 3778 was introduced on August 2, 2006, almost nine weeks ago, it has been blocked from consideration and the Committee is still waiting for budget information so that it may file its report on the bill. It is my understanding that the administration and SBA has several concerns about this bill in its current form.

I am very concerned at this apparent deadlock, a deadlock which threatens our bipartisan efforts to implement comprehensive SBA Diaster Assistance reforms before the end of the year. In particular, I believe that there must be SBA reforms in the following areas:

Short-Term Assistance: Following Katrina and Rita small businesses waited, on average, four to six months for approvals and disbursements on SBA Disaster Loans, In order to ensure the long-term survival of small businesses impacted by a catastrophic disaster, SBA needs to be in the business of short-term recovery—by providing either emergency bridge loans or grants.

Disaster Loan Process for Homeowners: While SBA's mission is to ''aid, counsel, assist and protect, insofar as is possible, the interests of small business concerns'' it also has the added responsibility of helping affected homeowners rebuild their housing post-disaster. Katrina and Rita resulted in record numbers of SBA Disaster Loan applications, from homeowners, which strained SBA's existing resources and personnel. If the SBA must bear this responsibility, the agency should improve the process as well as possibly seek greater coordination and cooperation with the U.S. Department of Housing and Urban Development on disaster housing assistance.

Expedited Disaster Loans to Businesses: The SBA currently has no mechanism in place to expedite Disaster Loans to impacted businesses that are either a major source of employment or that can demonstrate a vital contribution to recovery efforts in the area, such as businesses who construct housing, provide building materials, or conduct debris removal. The SBA needs the ability to fast-track loans to these businesses, in order to jumpstart local economies and recovery efforts.

Economic Injury Disaster Loans: Although Katrina and Rita directly affected businesses along the Gulf Coast, additional businesses in the region, as well as the rest of the country, were economically impacted by the storms. The SBA must have the ability to provide nationwide, or perhaps regional, economic injury disaster loans to businesses which can demonstrate economic distress or disruption from a future major disaster.

Loss Verification and Loan Processing: Following the Gulf Coast hurricanes, the SBA struggled for months to hire enough staff to inspect losses and process loan applications. Although SBA now has trained reserves to handle such surges in demand, the SBA also needs the permanent authority to enter into agreements with qualified private lenders and credit unions to process Disaster Loans and provide loss verification services.

Administrator Preston, I was impressed by your expressed willingness to be a bridge between Congress and the White House. For the SBA truly bring its disaster capabilities to the next level, I believe that it must work in concert with the Congress. Together, we must remove layers of bureaucracy and red tape, which, following Katrina and Rita, both overwhelmed and frustrated dedicated SBA employees and those affected by the hurricanes. We must also give the SBA new tools to ensure that problems that occurred post-Katrina and Rita never happen again.

Last month we marked the 1-year anniversary of Hurricane Katrina, and now mark the 1-year anniversary of hurricane Rita. It is essential that we take action now to make substantive reforms to the SBA Disaster Assistance Program. We owe nothing less to our small businesses. I ask that you continue working with my office on this important issue and respond to our approach in writing no later than October 31, 2006. This will help us develop a proposal which can address the concerns of the SBA as well as provide a better and more responsive SBA Disaster Assistance Program for our small businesses.

Thank you in advance for your assistance with this request.

Sincerely,

MARY L. LANDRIEU,
United States Senator.

By Mr. DODD (for himself and Mr. DEWINE):

S. 4098. A bill to improve the process for the development of needed pediatric medical devices; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Pediatric Medical Device Safety and Improvement Act of 2006. I want to begin by thanking Senator MIKE DEWINE for joining me in introducing this legislation and for his leadership on children's health. He has been my partner over the years as we fought to make drugs safer and more widely available for children. I believe the legislation we are introducing today will achieve a similar goal for pediatric medical devices. I would also like to especially thank the Elizabeth Glaser Pediatric AIDS Foundation, the American Academy of Pediatrics, the American Thoracic Society and the National Organization for Rare Disorders for their expertise in helping craft this legislation as well as their tireless support for making medical devices safer for use in children.

This legislation provides a comprehensive approach to ensuring that children are not left behind as cutting-edge research and revolutionary technologies for medical devices advance. Like drugs, where for too long children were treated like small adults and could just be given reduced doses of adult products, many essential medical devices used extensively by pediatricians are not designed or sized for children. In fact, the development of new medical devices suitable for children's smaller and growing bodies can lag 5 or 10 years behind those for adults.

While children and adults suffer from many of the same diseases and conditions, their device needs can vary considerably due to differences in size, rates of growth, critical development periods, anatomy, physiological differences such as breathing and heart rate, and physical activity levels. To date, because the pediatric market is so small and pediatric diseases relatively rare, there has been little incentive for device manufacturers to focus their attention on children. The result has been that pediatric providers must resort to ''jerry-rigging'' or fashioning make-shift device solutions for pediatric use. When that is not an option, providers may be forced to use more invasive treatment or less effective therapies.

For example, at present, left ventricular assist devices, LVADs, do not exist in the U.S. for children less than 5 years old. An LVAD is a mechanical pump that helps a heart that is too weak to pump blood through the body.

So infants and children under 5 years of age who have critical failure of their left or right ventricles have to be supported through extracorporeal membrane oxygenation, ECMO. An ECMO consists of a pump, an artificial lung, a blood warmer and an arterial filter, which is installed by inserting tubes into large veins or arteries located in the right side of the neck or the groin. While ECMOs can help children for short periods of time, they are problematic. They can cause dangerous clots and the blood thinners that prevent these clots may lead to internal bleeding. In addition, children must remain bedridden while using the device.

For young children needing to be on a ventilator to assist their breathing, the lack of non-invasive ventilators with masks that suitably fit babies has led to respiratory treatments that are inadequate or invasive treatment options such as placing a tube in the baby's throat.

Children needing prosthetic heart valves face a disproportionately high failure rate. Because of the biochemistry of children's growing bodies, prosthetic heart valves implanted in children calcify and deteriorate much faster than in adults. Typically, children with a heart valve implant who survive to adulthood will need four or five operations. Additionally, devices currently available for children must be better able to expand and grow as the child grows.

Over the past 2 years, several efforts have been launched to better identify barriers to the development of pediatric devices and to generate solutions for improving children's access to needed medical devices.

Beginning in June 2004, the American Academy of Pediatrics, the Elizabeth Glaser Pediatric AIDS Foundation, the National Organization for Rare Disorders, NORD, the National Association of Children's Hospitals, and the Advanced Medical Technology Association, AdvaMed, hosted a series of stakeholders meetings that yielded recommendations for improving the availability of pediatric devices. In October 2004, in response to a directive in the Medical Devices Technical Corrections Act of 2004, the Food and Drug Administration, FDA, released a report that identified numerous barriers to the development and approval of devices for children. And in July 2005, the Institute of Medicine, IOM, issued a report on the adequacy of postmarket surveillance of pediatric medical devices, as mandated by the Medical Device User Fee and Modernization Act of 2002. The IOM found significant flaws in safety monitoring and recommended expanding the FDA's ability to require postmarket studies of certain products and improving public access to information about postmarket pediatric studies.

Our legislation seeks to address the equally important issues of pediatric medical device safety and availability. To begin with, the bill creates a mechanism to allow the FDA to track the number and types of medical devices approved specifically for children or for conditions that occur in children. It also allows the FDA to use adult data to support a determination of reasonable assurance of effectiveness in pediatric populations and to extrapolate data between pediatric subpopulations.

The market for pediatric medical devices simply isn't what it is for adults. Therefore, many device manufacturers have been reluctant to make devices for children. Our bill creates an incentive for companies by modifying the existing humanitarian device exemption, HDE, provision to allow manufacturers to profit from devices that are specifically designed to meet a pediatric need.

To prevent abuse, our bill reverts to current law which allows no profit on sales of devices that exceed the number estimated to be needed for the approved condition. This provision is modeled after the existing Orphan Products Division designation process. Under no circumstances can there be a profit on sales if the device is used to treat or diagnose diseases or conditions affecting more than 4,000 individuals in the U.S. per year which is the same as under current law. Already approved adult HDEs upon date of enactment are eligible for the HDE profit modification but only if they are meet the conditions of the bill. The lifting of the profit restriction for new pediatric HDEs sunsets in 2012 and FDA is required to issue a report on its impact within 5 years.

In order to encourage pediatric medical device research, our bill requires the National Institutes of Health, NIH, to designate a point of contact at the agency to help innovators and physicians access funding for pediatric medical device development. It also requires the NIH, the FDA, and the Agency for Healthcare Research and Quality, AHRQ, to submit a plan for pediatric medical device research that identifies gaps in such research and proposes a research agenda for addressing them. In identifying the gaps, the plan can include a survey of pediatric medical providers regarding unmet pediatric medical device needs.

To better foster innovation in the private sector, our bill establishes demonstration grants for non-profit consortia to promote pediatric device development, including matchmaking between inventors and manufacturers and federal resources. These demonstration grants which are authorized for $6 million annually require that the federal government mentor and help manage pediatric device projects through the development process, including product identification, prototype design, device development and marketing. Under the bill, grantees must coordinate with the NIH's pediatric devices point of contact to identify research issues that require further study and with the FDA to help facilitate approval of pediatric indications.

Finally, in its 2005 report on pediatric medical device safety, the IOM found serious flaws in the postmarket safety surveillance of these devices. Our legislation allows FDA to require postmarket studies as a condition of clearance for certain categories of devices. This includes ''a class II or class III device the failure of which would be reasonably likely to have serious adverse health consequences or is intended to be (1) implanted in the human body for more than one year, or (2) a life sustaining or life supporting device used outside a device user facility.''

The legislation also gives the FDA the ability to require studies longer than 3 years with respect to a device that is to have significant use in pediatric populations if such studies would be necessary to address longer term pediatric questions, such as the impact on growth and development. And, it establishes a publicly accessible database of postmarket study commitments that involve questions about device use in pediatric populations.

The legislation we are introducing today has been many years in the making. In addition to the lead republican bill sponsor, Senator DEWINE, and the public health organizations I mentioned earlier, I would like to thank the Advanced Medical Technology Association and its member company Johnson & Johnson, for their contributions to this legislation. The bill we are introducing today reflects many of the comments and suggestions they provided through the development of this legislation. Several device manufacturers including Respironics, Seleon, Breas Medical AB, and Stryker have submitted letters of support for this legislation and I ask unanimous consent that their letters as well as the letters of all organizations supporting this bill be entered in the record following my remarks.

I look forward to working with patient groups, physicians, industry and my colleagues—including the chairman and ranking member of the Health, Education, Labor and Pensions Committee, Senators ENZI and KENNEDY—to move this legislation next year when the committee considers medical device legislation. I urge my colleagues to support this legislation and I am hopeful that it will become law as soon as possible.

I ask unanimous consent that the letters and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ELIZABETH GLASER
PEDIATRIC AIDS FOUNDATION,
Washington, DC, December 5, 2006.

Hon. CHRISTOPHER DODD,
Russell Senate Office Building,
Washington, DC.

Hon. MIKE DEWINE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS DODD AND DEWINE: On behalf of the Elizabeth Glaser Pediatric AIDS

Foundation, I would like to express our strong support for the Pediatric Medical Device Safety and Improvement Act of 2006. Your leadership on this issue has been outstanding and I applaud your efforts to introduce legislation that will improve the health and well-being of children across the U.S.

While cutting-edge research and revolutionary technologies have led to the development of countless innovative medical devices, as science and medicine move forward children are at risk of being left behind. Physical differences such as children's size, anatomy, and growth provide challenges that limit children's access to safe and effective medical devices. With very few devices available for pediatric use, pediatric providers must resort to ''jury-rigging'' or fashioning make-shift device solutions for their patients. When that is not an option, providers may be forced to use more invasive treatment or less effective therapies.

This legislation recognizes the urgent need for improved access to medical devices designed specifically for children and provides a comprehensive approach to addressing this issue that includes providing assistance to innovators, streamlining regulatory processes, elevating pediatric device issues at the FDA and NIH, and improving incentives for devices for small markets—while still preserving the ability to ensure the safety of new products.

Thank you for your leadership and commitment to this issue. We look forward to working closely with you to ensure that children across the U.S. benefit from this important piece of legislation.

Sincerely,

PAMELA W. BARNES,
President and Chief Executive Officer.

AMERICAN THORACIC SOCIETY,
New York, NY, September 11, 2006.

Hon. MIKE DEWINE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DEWINE: On behalf of the American Thoracic Society, I want to encourage you to continue your efforts to improve access to medical devices for children by introducing legislation this fall.

The ATS represents over 13,000 physicians, researchers, and allied health professionals, who are actively engaged in the diagnosis, treatment and research of respiratory disease and critical care medicine. Many of the patients we treat are children suffering from respiratory diseases.

You have long been a champion of the health needs of children and you are well aware that children are not ''little people.'' Children have specific health needs and challenges. This is particularly true in the case of medical equipment.

The medical device industry has excelled in developing new products that improve the care and well being for patients with respiratory diseases. However, due to the reduced market size, many of these breakthrough respiratory devices are not available to children. Children do not have the same access to ventilators, sleep apnea machines, masks and other respiratory related equipment that adults enjoy. The device access issue for children is a persistent problem in other fields of medicine.

The research and regulatory requirements for making pediatric specific devices can be daunting and may outweigh the business potential for entering the pediatric device market.

We have worked with our colleagues at the American Academy of Pediatrics and members of your staff to develop a legislative proposal that would remove many of the barriers that exist to binging pediatric specific medical devices products to the market. We strongly encourage you to introduce this legislation this fall.

The American Thoracic Society looks forward to working with you to bring this legislative proposal to fruition.

Sincerely,

JOHN E. HEFFNER,
President.

AMERICAN ACADEMY OF PEDIATRICS,
Elk Grove Village, IL, December 4, 2006.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Washington, DC.
Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATORS DODD AND DEWINE: On behalf of the 60,000 primary care pediatricians, pediatric medical subspecialists, and surgical specialists of the American Academy of Pediatrics who are committed to the attainment of optimal physical, mental and social health and well-being for all infants, children, adolescents, and young adults, we write today to express our gratitude and support for the ''Pediatric Medical Device Safety and Improvement Act of 2006.'' This legislation is an important step towards improving the process for the development of needed pediatric medical devices.

Children and adults often suffer from many of the same diseases and conditions, however their medical device needs vary considerable. Children are not just small adults and medical device technologies manufactured for adults often do not fit the needs of children. This problems forces pediatricians to ''jury-rig'' adult medical devices that are often too large in order to make them fit smaller bodies. This practice, however, is not always effective and leaves children without optimal treatment. Additionally, children's device needs vary considerable, due not only to size, but also to different rates of growth, anatomy, physiological differences and physical activity levels.

This legislation offers incentives to manufacturers to create needed medical devices specifically designed to meet the needs of pediatric patients and it gives the Food and Drug Administration the authority to require post-market studies to ensure continued efficacy and safety of these devices. The need for pediatric medical devices to treat or diagnose diseases and conditions affecting children is clear. Hence, it is essential that medical devices be manufactured with children's needs in mind.

Thank you for your continued commitment to improving the health and well-being of children. The American Academy of Pediatrics looks forward to working with you as this important legislation moves through Congress.

Sincerely,

AMERICAN ACADEMY OF PEDIATRICS.
THE AMERICAN PEDIATRIC SOCIETY.
THE ASSOCIATION OF MEDICAL SCHOOL PEDIATRIC DEPARTMENT CHAIRS.
THE SOCIETY FOR PEDIATRIC RESEARCH.

Murrysville, PA, August 16, 2006.

Hon. MIKE DEWINE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DEWINE, Respironics, Inc. is a global medical device company based in Pittsburgh, Pennsylvania. We are the worldwide leader at anticipating needs and providing valued solutions to the sleep and respiratory markets. We employ approximately 4,700 employees and have annual sales in excess of one billion dollars.

In our business, we often are called upon to work with pediatric patients. Based on this work, it is clear that changes are needed to facilitate an improvement in the availability of diagnostic and therapeutic medical devices for children.

Currently, a draft of a bill entitled ''To improve the process for the development of needed pediatric medical devices'' is being circulated among some Senators for discussion. After reviewing this bill, Respironics believes that the changes contemplated by this bill could help improve the availability of medical devices for children. Therefore, Respironics supports enactment of the bill.

We hope that you will join Respironics in supporting this important legislation.

Sincerely,

DAVID P. WHITE,
Chief Medical Officer.

SELEON, INC.,
Baltimore, MD, September 23, 2006.

Hon. MIKE DEWINE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DEWINE: On behalf of Seleon Inc., I want to encourage you to continue your efforts to improve access to medical therapies for children by introducing the bill, ''to improve the process for the development of needed pediatric medical devices'' this fall.

Seleon Inc., a medical device manufacturing company, strongly supports this bill. Thank you for your ongoing support of children's health and this important issue.

Sincerely,

MICHAEL LAUK,
President.

BREAS MEDICAL AB,
Mölnlycke, Sweden, August 17, 2006.

Hon. CHRISTOPHER J. DODD,
Hon. MIKE DEWINE,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS DODD AND DEWINE, On behalf of Breas Medical, I would like to thank you for your efforts to expand the availability of medical devices for children. We appreciate your long-standing leadership on behalf of children and welcome your interest in ensuring that they are not left behind when it comes to critical medical advances. Our devices were developed in Europe and are available for home use in the pediatric population there. We have partnered with companies in the United States, including Sleep Services of America, and now have FDA approval for device use in adults. We are seeking approval for the use of our devices in children where there is a great need.

While children and adults suffer from many of the same diseases and conditions, their device needs can vary considerably. Cutting-edge research and revolutionary technologies have led to the development of many innovative medical products; however, very few are designed specifically for children. We support your efforts to address the barriers to pediatric device development through legislation, particularly in the following areas:

1. Improving the ability of the Food and Drug Administration (FDA) to track how many and what types of devices are approved for children each year;

2. Streamlining pediatric device approvals by allowing the extrapolation of adult data to support pediatric indications, as appropriate;

3. Encouraging device manufacturers to create products for conditions that affect small numbers of children by removing existing restrictions on profit;

4. Improving federal support for pediatric device development by creating a coordinated research agenda and establishing a

contact point at the National Institutes of Health to help innovators access existing funding;

5. Improving pediatric device availability by establishing demonstration grants to promote pediatric device development, including connecting inventors and manufacturers, product identification, prototype development, and testing;

6. Improving post-market safety of pediatric devices by allowing FDA to call for postmarket pediatric studies, establishing a publicly accessible database of postmarket studies, and giving FDA the ability to require studies longer than 3 years if needed to answer longer-term pediatric questions.

Thank you for your leadership and commitment to this issue. We look forward to working closely with you toward passage of legislation to improve children's access to medical devices.

Sincerely,

ULF JÖNSSON,
President.

STRYKER CORPORATION,
Washington, DC, December 4, 2006.

Senator CHRISTOPHER J. DODD,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR DODD: On behalf of Stryker Corporation (''Stryker''), I am pleased to announce our support for your legislation to improve the availability and safety of pediatric medical devices—the Pediatric Medical Device Safety and Improvement Act of 2006. Like you and your colleagues, we want our children to have access to the fullest and best range of possible medical treatments, even if that means doing or inventing something new just for them.

We view this as our responsibility both as the leading manufacturer of orthopaedic oncology prostheses in the United States and as a global medical technology company with a significant presence in other medical specialties, including craniofacial deformities such as cleft lip and palate. We take pride in partnering with and sponsoring a range of medical organizations, including one which last year was able to provide free cleft lip surgeries to 8,531 children in 23 countries. The surgery took only about 45 minutes and cost $750 per child, but the corrective surgery changed, in a positive way, forevermore the lives of each and every child and the lives of their families too.

We sincerely appreciate your leadership role on children's issues. We take very seriously not only our commitment to children with cancer and craniofacial deformities but also our responsibility to ensure that our devices are safe and effective for use in pediatric patients.

As you may know, there has been significant progress over the past two decades in the management of patients with musculoskeletal cancers that has improved both the survival rates and quality of life of afflicted individuals. Twenty years ago, the standard treatment for any primary malignant bone and soft tissue sarcomas of the extremity was amputation of the affected arm or leg. Since that time, Stryker is proud to have partnered with leading pediatric oncology surgeons to develop limb-sparing, surgical solutions, including the implantation of a growing prosthesis that can be elongated to account for children's growth.

As with cancer, the treatment of craniofacial deformities is an area in which Stryker has also significantly improved and broadened its range of available medical products and solutions. With continued innovation of new and improved craniomaxillofacial technologies, Stryker hopes to continue to transform the lives of children with craniofacial deformities, such as craniosynostis and cleft lip and palate too.

It is our hope that your legislation will further spur the evolution of novel health care solutions for children. The bill's efforts to streamline approvals for devices with pediatric indications, improve incentives for the development of devices for small pediatric populations, and encourage the establishment of non-profit consortia for pediatric device development should be commended.

Stryker stands ready to assist you in your drive to stimulate the further development of child-centered medical technologies while closely monitoring the safety of such products after they have entered the market. Thank you again for your leadership on this important issue, and we look forward to working with you to advance your bill as medical device reauthorization legislation moves forward in the 110th Congress.

Sincerely,

ED ROZYNSKI,
Vice President,
Global Government Affairs.

S. 4098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pediatric Medical Device Safety and Improvement Act of 2006''.

SEC. 2. TRACKING PEDIATRIC DEVICE APPROVALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 515 the following:

''SEC. 515A. PEDIATRIC USES OF DEVICES.

''(a) NEW DEVICES.—

''(1) IN GENERAL.—A person that submits to the Secretary an application under section 520(m), or an application (or supplement to an application) or a product development protocol under section 515, shall include in the application or protocol the information described in paragraph (2).

''(2) REQUIRED INFORMATION.—The application or protocol described in paragraph (1) shall include, with respect to the device for which approval is sought and if readily available—

''(A) a description of any pediatric subpopulations that suffer from the disease or condition that the device is intended to treat, diagnose, or cure; and

''(B) the number of affected pediatric patients.

''(3) ANNUAL REPORT.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that includes—

''(A) the number of devices approved in the year preceding the year in which the report is submitted, for which there is a pediatric subpopulation that suffers from the disease or condition that the device is intended to treat, diagnose, or cure;

''(B) the number of devices approved in the year preceding the year in which the report is submitted, labeled for use in pediatric patients;

''(C) the number of pediatric devices approved in the year preceding the year in which the report is submitted, exempted from a fee pursuant to section 738(a)(2)(B)(v); and

''(D) the review time for each device described in subparagraphs (A), (B), and (C).

''(b) DETERMINATION OF PEDIATRIC EFFECTIVENESS BASED ON SIMILAR COURSE OF DISEASE OR CONDITION OR SIMILAR EFFECT OF DEVICE ON ADULTS.—

''(1) IN GENERAL.—If the course of the disease or condition and the effects of the device are sufficiently similar in adults and pediatric patients, the Secretary may conclude that adult data may be used to support a determination of a reasonable assurance of effectiveness in pediatric populations, as appropriate.

''(2) EXTRAPOLATION BETWEEN SUBPOPULATIONS.—A study may not be needed in each pediatric subpopulation if data from one subpopulation can be extrapolated to another subpopulation.''.

SEC. 3. MODIFICATION TO HUMANITARIAN DEVICE EXEMPTION.

(a) IN GENERAL.—Section 520(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)) is amended—

(1) in paragraph (3), by striking ''No'' and inserting ''Except as provided in paragraph (6), no'';

(2) in paragraph (5)—

(A) by inserting '', if the Secretary has reason to believe that the requirements of paragraph (6) are no longer met,'' after ''public health''; and

(B) by adding at the end the following: ''If the person granted an exemption under paragraph (2) fails to demonstrate continued compliance with the requirements of this subsection, the Secretary may suspend or withdraw the exemption from the effectiveness requirements of sections 514 and 515 for a humanitarian device only after providing notice and an opportunity for an informal hearing.'';

(3) by striking paragraph (6) and inserting the following:

''(6)(A) Except as provided in subparagraph (D), the prohibition in paragraph (3) shall not apply with respect to a person granted an exemption under paragraph (2) if each of the following conditions apply:

''(i)(I) The device with respect to which the exemption is granted is intended for the treatment or diagnosis of a disease or condition that occurs in pediatric patients or in a pediatric subpopulation, and such device is labeled for use in pediatric patients or in a pediatric subpopulation in which the disease or condition occurs.

''(II) The device was not previously approved under this subsection for the pediatric patients or the pediatric subpopulation described in subclause (I) prior to the date of enactment of the Pediatric Medical Device Safety and Improvement Act of 2006.

''(ii) During any calendar year, the number of such devices distributed during that year does not exceed the annual distribution number specified by the Secretary when the Secretary grants such exemption. The annual distribution number shall be based on the number of individuals affected by the disease or condition that such device is intended to treat, diagnose, or cure, and of that number, the number of individuals likely to use the device, and the number of devices reasonably necessary to treat such individuals. In no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

''(iii) Such person immediately notifies the Secretary if the number of such devices distributed during any calendar year exceeds the annual distribution number referred to in clause (ii).

''(iv) The request for such exemption is submitted on or before October 1, 2012.

''(B) The Secretary may inspect the records relating to the number of devices distributed during any calendar year of a person granted an exemption under paragraph (2) for which the prohibition in paragraph (3) does not apply.

''(C) A person may petition the Secretary to modify the annual distribution number specified by the Secretary under subparagraph (A)(ii) with respect to a device if additional information on the number of individuals affected by the disease or condition arises, and the Secretary may modify such number but in no case shall the annual distribution number exceed the number identified in paragraph (2)(A).

''(D) If a person notifies the Secretary, or the Secretary determines through an inspection under subparagraph (B), that the number of devices distributed during any calendar year exceeds the annual distribution number, as required under subparagraph (A)(iii), and modified under subparagraph (C), if applicable, then the prohibition in paragraph (3) shall apply with respect to such person for such device for any sales of such device after such notification.

''(E)(i) In this subsection, the term 'pediatric patients' means patients who are 21 years of age or younger at the time of the diagnosis or treatment.

''(ii) In this subsection, the term 'pediatric subpopulation' means 1 of the following populations:

''(I) Neonates.

''(II) Infants.

''(III) Children.

''(IV) Adolescents.''; and

(4) by adding at the end the following:

''(7) The Secretary shall refer any report of an adverse event regarding a device for which the prohibition under paragraph (3) does not apply pursuant to paragraph (6)(A) that the Secretary receives to the Office of Pediatric Therapeutics, established under section 6 of the Best Pharmaceuticals for Children Act (Public Law 107–109)). In considering the report, the Director of the Office of Pediatric Therapeutics, in consultation with experts in the Center for Devices and Radiological Health, shall provide for periodic review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this Act in response to the report.''.

(b) REPORT.—Not later than January 1, 2011, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the impact of allowing persons granted an exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) with respect to a device to profit from such device pursuant to section 520(m)(6) of such Act (21 U.S.C. 360j(m)(6)) (as amended by subsection (a)), including—

(1) an assessment of whether such section 520(m)(6) (as amended by subsection (a)) has increased the availability of pediatric devices for conditions that occur in small numbers of children, including any increase or decrease in the number of—

(A) exemptions granted under such section 520(m)(2) for pediatric devices; and

(B) applications approved under section 515 of such Act (21 U.S.C. 360e) for devices intended to treat, diagnose, or cure conditions that occur in pediatric patients or for devices labeled for use in a pediatric population;

(2) the conditions or diseases the pediatric devices were intended to treat or diagnose and the estimated size of the pediatric patient population for each condition or disease;

(3) the costs of the pediatric devices, based on a survey of children's hospitals;

(4) the extent to which the costs of such devices are covered by health insurance;

(5) the impact, if any, of allowing profit on access to such devices for patients;

(6) the profits made by manufacturers for each device that receives an exemption;

(7) an estimate of the extent of the use of the pediatric devices by both adults and pediatric populations for a condition or disease other than the condition or disease on the label of such devices;

(8) recommendations of the Comptroller General of the United States regarding the effectiveness of such section 520(m)(6) (as amended by subsection (a)) and whether any modifications to such section 520(m)(6) (as amended by subsection (a)) should be made;

(9) existing obstacles to pediatric device development; and

(10) an evaluation of the demonstration grants described in section 5.

(c) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Commissioner of Food and Drugs shall issue guidance for institutional review committees on how to evaluate requests for approval for devices for which a humanitarian device exemption under section 520(m)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(m)(2)) has been granted.

SEC. 4. ENCOURAGING PEDIATRIC MEDICAL DEVICE RESEARCH.

(a) ACCESS TO FUNDING.—The Director of the National Institutes of Health shall designate a contact point or office at the National Institutes of Health to help innovators and physicians access funding for pediatric medical device development.

(b) PLAN FOR PEDIATRIC MEDICAL DEVICE RESEARCH.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner of Food and Drugs, in collaboration with the Director of the National Institutes of Health and the Director of the Agency for Healthcare Research and Quality, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a plan for expanding pediatric medical device research and development. In developing such plan, the Commissioner of Food and Drugs shall consult with individuals and organizations with appropriate expertise in pediatric medical devices.

(2) CONTENTS.—The plan under paragraph (1) shall include—

(A) the current status of federally funded pediatric medical device research;

(B) any gaps in such research, which may include a survey of pediatric medical providers regarding unmet pediatric medical device needs, as needed; and

(C) a research agenda for improving pediatric medical device development and Food and Drug Administration clearance or approval of pediatric medical devices, and for evaluating the short- and long-term safety and effectiveness of pediatric medical devices.

SEC. 5. DEMONSTRATION GRANTS FOR IMPROVING PEDIATRIC DEVICE AVAILABILITY.

(a) IN GENERAL.—

(1) REQUEST FOR PROPOSALS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue a request for proposals for 1 or more grants or contracts to nonprofit consortia for demonstration projects to promote pediatric device development.

(2) DETERMINATION ON GRANTS OR CONTRACTS.—Not later than 180 days after the date the Secretary of Health and Human Services issues a request for proposals under paragraph (1), the Secretary shall make a determination on the grants or contracts under this section.

(b) APPLICATION.—A nonprofit consortium that desires to receive a grant or contract under this section shall submit an application to the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—A nonprofit consortium that receives a grant or contract under this section shall—

(1) encourage innovation by connecting qualified individuals with pediatric device ideas with potential manufacturers;

(2) mentor and manage pediatric device projects through the development process, including product identification, prototype design, device development, and marketing;

(3) connect innovators and physicians to existing Federal resources, including resources from the Food and Drug Administration, the National Institutes of Health, the Small Business Administration, the Department of Energy, the Department of Education, the National Science Foundation, the Department of Veterans Affairs, the Agency for Healthcare Research and Quality, and the National Institute of Standards and Technology;

(4) assess the scientific and medical merit of proposed pediatric device projects;

(5) assess business feasibility and provide business advice;

(6) provide assistance with prototype development; and

(7) provide assistance with postmarket needs, including training, logistics, and reporting.

(d) COORDINATION.—

(1) NATIONAL INSTITUTES OF HEALTH.—Each consortium that receives a grant or contract under this section shall—

(A) coordinate with the National Institutes of Health's pediatric device contact point or office, designated under section 4; and

(B) provide to the National Institutes of Health any identified pediatric device needs that the consortium lacks sufficient capacity to address or those needs in which the consortium has been unable to stimulate manufacturer interest.

(2) FOOD AND DRUG ADMINISTRATION.—Each consortium that receives a grant or contract under this section shall coordinate with the Commissioner of Food and Drugs and device companies to facilitate the application for approval or clearance of devices labeled for pediatric use.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2007 through 2011.

SEC. 6. AMENDMENTS TO OFFICE OF PEDIATRIC THERAPEUTICS AND PEDIATRIC ADVISORY COMMITTEE.

(a) OFFICE OF PEDIATRIC THERAPEUTICS.—Section 6(b) of the Best Pharmaceuticals for Children Act (21 U.S.C. 393a(b)) is amended by inserting '', including increasing pediatric access to medical devices'' after ''pediatric issues''.

(b) PEDIATRIC ADVISORY COMMITTEE.—Section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subsection (a), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''and 505B'' and inserting ''505B, 510(k), 515, and 520(m)'';

(ii) by striking subparagraph (B) and inserting the following:

''(B) identification of research priorities related to therapeutics (including drugs and biological products) and medical devices for

pediatric populations and the need for additional diagnostics and treatments for specific pediatric diseases or conditions; and''; and

(iii) in subparagraph (C), by inserting ''(including drugs and biological products) and medical devices'' after ''therapeutics''.

SEC. 7. STUDIES.

(a) POSTMARKET STUDIES.—Section 522 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l) is amended—

(1) in subsection (a)—

(A) by inserting '', or as a condition to approval of an application (or a supplement to an application) or a product development protocol under section 515 or as a condition to clearance of a premarket notification report under section 510(k),'' after ''The Secretary may by order''; and

(B) by inserting '', that is expected to have significant use in pediatric populations,'' after ''health consequences''; and

(2) in subsection (b)—

(A) by striking ''(b) SURVEILLANCE APPROVAL.—Each'' and inserting the following:

''(b) SURVEILLANCE APPROVAL.—

''(1) IN GENERAL.—Each'';

(B) by striking ''The Secretary, in consultation'' and inserting ''Except as provided in paragraph (2), the Secretary, in consultation'';

(C) by striking ''Any determination'' and inserting ''Except as provided in paragraph (2), any determination''; and

(D) by adding at the end the following:

''(2) LONGER STUDIES FOR PEDIATRIC DEVICES.—The Secretary may by order require a prospective surveillance period of more than 36 months with respect to a device that is expected to have significant use in pediatric populations if such period of more than 36 months is necessary in order to assess the impact of the device on growth and development, or the effects of growth, development, activity level, or other factors on the safety or efficacy of the device.''.

(b) DATABASE.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall establish a publicly accessible database of studies of medical devices that includes all studies and surveillances, described in paragraph (2)(A), that were in progress on the date of enactment of this Act or that began after such date.

(B) ACCESSIBILITY.—Information included in the database under subparagraph (A) shall be in language reasonably accessible and understood by individuals without specific expertise in the medical field.

(2) STUDIES AND SURVEILLANCES.—

(A) INCLUDED.—The database described in paragraph (1) shall include—

(i) all postmarket surveillances ordered under section 522(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360l(a)) or agreed to by the manufacturer; and

(ii) all other studies completed by the manufacturer with respect to a medical device after—

(I) the premarket approval of such device under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e);

(II) the clearance of a premarket notification report under section 510(k) of such Act (21 U.S.C. 360(k)) with respect to such device; or

(III) submission of an application under section 520(m) of such Act (21 U.S.C. 360j(m)) with respect to such device.

(B) EXCLUDED.—The database described in paragraph (1) shall not include any studies with respect to a medical device that were completed prior to the initial approval of such device.

(3) CONTENTS OF STUDY AND SURVEILLANCE.—For each study or surveillance included in the database described in paragraph (1), the database shall include—

(A) information on the status of the study or surveillance;

(B) basic information about the study or surveillance, including the purpose, the primary and secondary outcomes, and the population targeted;

(C) the expected completion date of the study or surveillance;

(D) public health notifications, including safety alerts; and

(E) any other information the Secretary of Health and Human Services determines appropriate to protect the public health.

(4) ONCE COMPLETED OR TERMINATED.—In addition to the information described in paragraph (3), once a study or surveillance has been completed or if a study or surveillance is terminated, the database shall also include—

(A) the actual date of completion or termination;

(B) if the study or surveillance was terminated, the reason for termination;

(C) if the study or surveillance was submitted but not accepted by the Food and Drug Administration because the study or surveillance did not meet the requirements for such study or surveillance, an explanation of the reasons and any follow-up action required;

(D) information about any labeling changes made to the device as a result of the study or surveillance findings;

(E) information about any other decisions or actions of the Food and Drug Administration that result from the study or surveillance findings;

(F) lay and technical summaries of the study or surveillance results and key findings, or an explanation as to why the results and key findings do not warrant public availability;

(G) a link to any peer reviewed articles on the study or surveillance; and

(H) any other information the Secretary of Health and Human Services determines appropriate to protect the public health.

(5) PUBLIC ACCESS.—The database described in paragraph (1) shall be—

(A) accessible to the general public; and

(B) easily searchable by multiple criteria, including whether the study or surveillance involves pediatric populations.

(c) MEDICAL DEVICE CODING.—The Secretary of Health and Human Services, in consultation with the Commissioner of Food and Drugs, shall adopt voluntary national standards for medical device coding. In adopting voluntary national standards for medical device coding, the Secretary of Health and Human Services shall coordinate with other efforts by the Secretary to adopt and implement standards for the electronic exchange of health information.

Mr. DEWINE. Mr. President, today I join my colleague Senator DODD to introduce a bill designed to help protect our Nation's children. Simply put, our bill would help ensure that our children have access to lifesaving medical devices that are designed specifically for their small bodies. Since the beginning of my career, my No. 1 priority has been to ensure that our children are healthy and safe. There is no other issue more important to me.

Today, many medical devices used by pediatricians are not designed for children. That means that doctors have to fit adult sized devices into children's bodies. This is not right. We need to encourage the development of devices that are sized appropriately for children. According to pediatricians, medical devices sized appropriately for children are developed sometimes 5 to 10 years behind those for adults. The Pediatric Medical Device Safety and Improvement Act takes a step towards fixing this problem by providing incentives for manufacturers to develop devices for children while also ensuring the safety of new products once on the market.

By introducing this bill, we are saying that we care about our children. We are saying that we care that children have access to lifesaving medical devices that are designed specifically for their small bodies. We are saying that we know we can do better for our children and this bill will do just that.

We all want to see better health care options for our sick children. I believe that with this bill we are taking the first step to resolve a serious national health problem. While this legislation obviously will not pass this year, I know that Senator DODD will continue to work on it next year and encourage my Republican colleagues to take a close look at this bill and support it in the 110th Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 624—TO HONOR THE MEMORY OF ARNOLD ''RED'' AUERBACH

Mr. KENNEDY (for himself and Mr. KERRY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 624

Whereas Arnold ''Red'' Auerbach was born on September 20, 1917, in Brooklyn, New York, the son of immigrants from Minsk, Russia;

Whereas Red started playing basketball as a public school student in Brooklyn and later became a star guard for Eastern District High School, making all-scholastic second team in his senior year;

Whereas Red started his coaching career at St. Albans Preparatory School and Roosevelt High School in Washington, D.C., before serving in the United States Navy from 1943 to 1946;

Whereas, in 1946, Red began his professional coaching career with the Washington Capitols in the Basketball Association of America (BAA) and led the team to the 1947 and 1949 division titles, then joined the Boston Celtics as coach in 1950 after the BAA merged with the National Basketball Association (NBA);

Whereas Red's record of success on the basketball court and in the Celtics' front office is unmatched;

Whereas, during Red's 16 years coaching the Boston Celtics, the team won 9 NBA championships, with a record 8 in a row;

Whereas, when Red retired from coaching in 1966 to become General Manager of the Celtics, he had won more games than any other coach in NBA history with 1,037 victories and had won almost two-thirds of the